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# 2021 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 18, 2021**

#### 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  
601 South Belvidere Street  
Richmond, Virginia 23220-6500

## INSTRUCTIONS FOR THE VIRGINIA 2021 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 18, 2021**. 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:**

**Virginia Housing only accepts files via our work center sites on Procorem. Contact [TaxCreditApps@virginiahousing.com](mailto:TaxCreditApps@virginiahousing.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 Virginia Housing LIHTC Allocation Department staff.**

### Disclaimer:

Virginia Housing 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 Virginia Housing.

### Entering Data:

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

### **Please Note:**

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

### Assistance:

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

### Virginia Housing LIHTC Allocation Staff Contact Information

<b>Name</b>	<b>Email</b>	<b>Phone Number</b>
JD Bondurant	<a href="mailto: johndavid.bondurant@virginiahousing.com">johndavid.bondurant@virginiahousing.com</a>	(804) 343-5725
Sheila Stone	<a href="mailto: sheila.stone@virginiahousing.com">sheila.stone@virginiahousing.com</a>	(804) 343-5582
Stephanie Flanders	<a href="mailto: stephanie.flanders@virginiahousing.com">stephanie.flanders@virginiahousing.com</a>	(804) 343-5939
Phil Cunningham	<a href="mailto: phillip.cunningham@virginiahousing.com">phillip.cunningham@virginiahousing.com</a>	(804) 343-5514
Pamela Freeth	<a href="mailto: pamela.freeth@virginiahousing.com">pamela.freeth@virginiahousing.com</a>	(804) 343-5563
Aniyah Moaney	<a href="mailto: aniyah.moaney@virginiahousing.com">aniyah.moaney@virginiahousing.com</a>	(804) 343-5518

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## 2021 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 Virginia Housing's point system of ranking applications, and may assist Virginia Housing 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 checked="" type="checkbox"/> | Electronic Copy of the Existing Condition questionnaire <b>(MANDATORY if Rehab)</b>   |
| <input checked="" type="checkbox"/> | Electronic Copy of the Physical Needs Assessment <b>(MANDATORY at reservation for a 4% rehab request)</b>   |
| <input checked="" 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 Virginia Housing:   |
|                                     | -Nonprofit Articles of Incorporation      -IRS Documentation of Nonprofit Status  |
|                                     | -Joint Venture Agreement (if applicable)      -For-profit Consulting Agreement (if applicable)  |
| <input checked="" type="checkbox"/> | Tab J: Relocation Plan and Unit Delivery Schedule <b>(MANDATORY)</b>  |
|                                     | Tab K: Documentation of Development Location:   |
| <input checked="" 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 checked="" type="checkbox"/> | Tab P: Developer Experience documentation and Partnership agreements  |
| <input checked="" 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 checked="" type="checkbox"/> | Tab W: Internet Safety Plan and Resident Information Form (if internet amenities selected)  |
| <input checked="" type="checkbox"/> | Tab X: Marketing Plan for units meeting accessibility requirements of HUD section 504   |
| <input checked="" type="checkbox"/> | Tab Y: Inducement Resolution for Tax Exempt Bonds   |

VHDA TRACKING NUMBER

A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT

Application Date: 11/19/2021

1. Development Name: Petersburg East I & II Apartments
2. Address (line 1): 110 Croatan Drive & 2385 Navajo Court  
Address (line 2):  
City: Petersburg State: VA Zip: 23803
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: 37.23942 Latitude: -77.36458  
(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 Petersburg City
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: 8101.00
7. Development is located in a **Qualified Census Tract**..... TRUE
8. Development is located in a **Difficult Development Area**..... FALSE
9. Development is located in a **Revitalization Area based on QCT** ..... TRUE
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	FALSE	FALSE

Enter only Numeric Values below:

13. Congressional District: 4
- Planning District: 19
- State Senate District: 16
- State House District: 63

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

[Link to Virginia Housing'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

Petersburg East I & II apartments is a multifamily apartment community located in Petersburg, VA which Vitus intends to acquire and rehabilitate. The property consists of a 168-unit apartment community comprised of 19 two-story buildings located on a 10.60 acre lot. Petersburg East I was constructed in 1975 and Petersburg East II was constructed in 1976. The project's total unit count is made up of 28 one-bedroom units, 88 two-bedroom units, and 52 three-bedroom units. Property amenities include laundry facilities, an on-site leasing office and a playground. Unit features include air condition and a dishwasher. Parking is available on-site for approximately 290 vehicles. All 168 units are covered by a HAP contract which will be renewed for a 20-year term at closing. The projects rehabilitation will consist of roughly \$55,000 per unit.

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: Kenneth Miller  
 Chief Executive Officer's Title: Interim City Manager Phone: 804-733-2301

VHDA TRACKING NUMBER

[Redacted]

A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT

Application Date: 11/19/2021

Street Address: 135 N. Union St.  
City: Petersburg State: VA Zip: 23803

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

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

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

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

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, 2021.

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, 2021, 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 2021 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 Virginia Housing regarding the 4% tax exempt bond deal?

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

Total Units within 9% allocation request?

Total Units within 4% Tax Exempt allocation Request?

Total Units:

% of units in 4% Tax Exempt Allocation Request:

**6. Extended Use Restriction**

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

**Must Select One:**

**Definition of selection:**

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

**C. OWNERSHIP INFORMATION**

NOTE: Virginia Housing 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 Virginia Housing 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: Petersburg East Housing Partners, LP

Developer Name: Vitus Development IV, LLC

Contact: M/M ▶ Ms. First: Brooke MI: Last: Shorett

Address: 415 1st Avenue North #19240

City: Seattle St. ▶ WA Zip: 98109

Phone: (206) 832-1328 Ext. Fax:

Email address: brooke.shorett@vitus.com

Federal I.D. No. 86-1258709 (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.  
Gavin Taylor; gavin.taylor@vitus.com; 253-886-2906

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

Names **	Phone	Type Ownership	% Ownership
Vitus Development IV, LLC	(206) 832-1328	Manager	100.000%
Scott O. Langan	(206) 832-1328	Non-Managing Member	10.000%
Vitus Group, LLC	(206) 832-1328	Managing Member	90.000%
Stephen R. Whyte	(206) 832-1328	Manager and Sole M	100.000%
			0.000%
			0.000%
			0.000%

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

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

- ACTION:**
- a. Provide Principals' Previous Participation Certification (**Mandatory TAB C**)



**C. OWNERSHIP INFORMATION**

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 Virginia Housing 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 Virginia Housing 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 Virginia Housing 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: Deed

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 Virginia Housing. See QAP for further details.

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

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

b. FALSE ..... 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).)

3. Seller Information:

Name: Whitehill Estates I, LP & Whitehill Estates II, LP

Address: PO Box 321209

City: Cocoa Beach St.: FL Zip: 32932-1209

Contact Person: James Kincaid Phone: (321) 799-4090

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

If above statement is TRUE, complete the following:

**D. SITE CONTROL**

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%

**E. DEVELOPMENT TEAM INFORMATION**

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

- |                          |  |                           |                |
|--------------------------|--|---------------------------|----------------|
| 1. Tax Attorney:         |  | This is a Related Entity. | FALSE          |
| Firm Name:               |  |                           |                |
| Address:                 |  |                           |                |
| Email:                   |  | Phone:                    |                |
| 2. Tax Accountant:       | Justin Gierth  | This is a Related Entity. | FALSE          |
| Firm Name:               | Propp Christensen Caniglia LLP                             |                           |                |
| Address:                 | 9261 Sierra College Boulevard, Roseville, California 95661 |                           |                |
| Email:                   | jgierth@pccllp.com   | Phone:                    | (916) 751-2900 |
| 3. Consultant:           |  | This is a Related Entity. | FALSE          |
| Firm Name:               |  | Role:                     |                |
| Address:                 |  |                           |                |
| Email:                   |  | Phone:                    |                |
| 4. Management Entity:    | Arco Management of Virginia, LLC                           | This is a Related Entity. | FALSE          |
| Firm Name:               | MMS Group  |                           |                |
| Address:                 | 4 Executive Blvd., Suite 100, Suffern, NY 10901            |                           |                |
| Email:                   | cmcnerney@mmsgroup.com                                     | Phone:                    | (845) 368-2400 |
| 5. Contractor:           | Leon Mullinax  | This is a Related Entity. | FALSE          |
| Firm Name:               | Empire Construction, Inc                                   |                           |                |
| Address:                 | 3600 Henson Rd, Knoxville, TN 37921                        |                           |                |
| Email:                   | leonm@empireinctn.com                                      | Phone:                    | (865) 210-1213 |
| 6. Architect:            | Dyke Nelson  | This is a Related Entity. | FALSE          |
| Firm Name:               | DNA Workshop   |                           |                |
| Address:                 | 235 South 14th Street, Baton Rouge 70802                   |                           |                |
| Email:                   | Dyke@dna-workshop.com                                      | Phone:                    | (225) 478-8401 |
| 7. Real Estate Attorney: | Jacob Bean   | This is a Related Entity. | FALSE          |
| Firm Name:               | Winthrop & Weinstine                                       |                           |                |
| Address:                 | 225 South 6th Street, Minneapolis, MN 55402                |                           |                |
| Email:                   | jbean@winthrop.com   | Phone:                    | (612) 604-6498 |
| 8. Mortgage Banker:      | Tim Leonhard   | This is a Related Entity. | FALSE          |
| Firm Name:               | Berkadia   |                           |                |
| Address:                 | 5960 Berkshire Lane Suite 1000, Dallas, TX 75225           |                           |                |
| Email:                   | Tim.Leonhard@berkadia.com                                  | Phone:                    | (504) 458-1626 |
| 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..... **TRUE**
- b. This development has received a previous allocation of credits..... **TRUE**  
 If so, in what year did this development receive credits? ..... **2004/2005**
- 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..... **TRUE**  
**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 Virginia Housing 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 Virginia Housing 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..... **TRUE**
- b. All buildings qualify for an exception to the 10-year rule under IRC Section 42(d)(2)(D)(i),..... **TRUE**
  - i. Subsection (I)..... **TRUE**
  - ii. Subsection (II)..... **TRUE**
  - iii. Subsection (III)..... **FALSE**
  - iv. Subsection (IV)..... **TRUE**
  - 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)

**3. Rehabilitation Credit Information**

- a. Credits are being requested for rehabilitation expenditures..... **TRUE**
- b. **Minimum Expenditure Requirements**

**F. REHAB INFORMATION**

- i. All buildings in the development satisfy the rehab costs per unit requirement of IRS Section 42(e)(3)(A)(ii)..... **TRUE**
- ii. All buildings in the development qualify for the IRC Section 42(e)(3)(B) exception to the 10% basis requirement (4% credit only)..... **TRUE**
- iii. All buildings in the development qualify for the IRC Section 42(f)(5)(B)(ii)(II) exception..... **TRUE**
- iv. There are different circumstances for different buildings..... **FALSE**  
**Action:** (If True, provide an explanation for each building in Tab K)

**4. Request For Exception**

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

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

G. NONPROFIT INVOLVEMENT

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

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

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

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

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

A. Nonprofit Involvement (All Applicants)

There is nonprofit involvement in this development..... FALSE (If false, go on to #3.)

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

B. Type of involvement:

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

or

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

C. Identity of Nonprofit (All nonprofit applicants):

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

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

Contact Person: [Yellow box]

Street Address: [Yellow box]

City: [Yellow box] State: [Yellow box] Zip: [Yellow box]

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

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

G. NONPROFIT INVOLVEMENT

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: [Redacted]

or indicate true if Local Housing Authority FALSE Name of Local Housing Authority [Redacted]

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.



**H. STRUCTURE AND UNITS INFORMATION**

**1. General Information**

a. Total number of <b>all</b> units in development	168	bedrooms	0
Total number of <b>rental</b> units in development	168	bedrooms	0
Number of low-income rental units	168	bedrooms	0
Percentage of rental units designated low-income	100.00%		
b. Number of new units:.....	0	bedrooms	0
Number of adaptive reuse units: .....	0	bedrooms	0
Number of rehab units:.....	168	bedrooms	0
c. If any, indicate number of planned exempt units (included in total of all units in development).....			0
d. Total Floor Area For The Entire Development.....			159,574.00 (Sq. ft.)
e. Unheated Floor Area (i.e. Breezeways, Balconies, Storage).....			29,542.00 (Sq. ft.)
f. Nonresidential Commercial Floor Area (Not eligible for funding).....			0.00
g. Total Usable Residential Heated Area.....			130,032.00 (Sq. ft.)
h. Percentage of Net Rentable Square Feet Deemed To Be <b>New Rental Space</b> .....			0.00%
i. Exact area of site in acres .....	10.600		
j. Locality has approved a final site plan or plan of development..... If <b>True</b> , Provide required documentation ( <b>TAB O</b> ).			TRUE
k. Requirement as of 2016: Site must be properly zoned for proposed development. <b>ACTION:</b> Provide required zoning documentation ( <b>MANDATORY TAB G</b> )			
l. Development is eligible for Historic Rehab credits.....			FALSE

**Definition:**

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

**2. UNIT MIX**

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

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

Unit Type	Average Sq Foot		# of LIHTC Units	Total Rental Units
Supportive Housing	0.00	SF	0	0
1 Story Eff - Elderly	0.00	SF	0	0
1 Story 1BR - Elderly	0.00	SF	0	0
1 Story 2BR - Elderly	0.00	SF	0	0
Eff - Elderly	0.00	SF	0	0
1BR Elderly	0.00	SF	0	0
2BR Elderly	0.00	SF	0	0
Eff - Garden	0.00	SF	0	0
1BR Garden	585.00	SF	28	28

**H. STRUCTURE AND UNITS INFORMATION**

2BR Garden	753.75	SF	60	60
3BR Garden	896.00	SF	52	52
4BR Garden	0.00	SF	0	0
2+ Story 2BR Townhouse	782.00	SF	28	28
2+ Story 3BR Townhouse	0.00	SF	0	0
2+ Story 4BR Townhouse	0.00	SF	0	0
			168	168

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

**3. Structures**

- a. Number of Buildings (containing rental units)..... 19
- b. Age of Structure:..... 46 years
- c. Number of stories:..... 2

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

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

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

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

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

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

h. Development contains an elevator(s). FALSE  
 If true, # of Elevators. 0  
 Elevator Type (if known) \_\_\_\_\_

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

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

- a. Business Center..... TRUE
- b. Covered Parking..... FALSE
- c. Exercise Room..... TRUE
- d. Gated access to Site..... FALSE
- e. Laundry facilities..... TRUE
- f. Limited Access..... FALSE
- g. Playground..... TRUE
- h. Pool..... FALSE
- i. Rental Office..... TRUE
- j. Sports Activity Ct.. FALSE

**H. STRUCTURE AND UNITS INFORMATION**

k. Other:  

l. Describe Community Facilities: Laundry, Playground, Community Building

m. Number of Proposed Parking Spaces..... 290

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**).

**5. Plans and Specifications**

**a. Minimum submission requirements for all properties (new construction, rehabilitation and adaptive reuse):**

- i. A location map with development clearly defined.
- ii. Sketch plan of the site showing overall dimensions of all building(s), major site elements (e.g., parking lots and location of existing utilities, and water, sewer, electric, gas in the streets adjacent to the site). Contour lines and elevations are not required.
- iii. Sketch plans of all building(s) reflecting overall dimensions of:
  - a. Typical floor plan(s) showing apartment types and placement
  - b. Ground floor plan(s) showing common areas
  - c. Sketch floor plan(s) of typical dwelling unit(s)
  - d. Typical wall section(s) showing footing, foundation, wall and floor structure
 Notes 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 Virginia Housing's **Minimum Design and Construction Requirements**. By signing and submitting the Application for Reservation of LIHTC, the applicant certifies that the proposed project budget, plans & specifications and work write-ups incorporate all necessary elements to fulfill these requirements.

**6. Market Study Data:**

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

Project Wide Capture Rate - LIHTC Units	4.40%
Project Wide Capture Rate - Market Units	N/A
Project Wide Capture Rate - All Units	4.40%
Project Wide Absorption Period (Months)	6

**J. ENHANCEMENTS**

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

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

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

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

**ACTION:** Provide 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:**

<b>New Constr.</b>
------------------------

- |        |  |
|--------|--|
| TRUE   | a. A community/meeting room with a minimum of 749 square feet is provided.   |
| 85.00% | 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).  |
| TRUE   | 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.  |
| TRUE   | f. Free WiFi access will be provided in community room for resident only usage.  |
| FALSE  | g. Each unit is provided free individual high speed internet access.   |
| or     |  |
| FALSE  | h. Each unit is provided free individual WiFi access.  |
| TRUE   | 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     |  |
| TRUE   | 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.   |
| TRUE   | 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.                              |

**J. ENHANCEMENTS**

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

- 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 Virginia Housing's Universal Design Standards.
- b. Number of Rental Units constructed to meet Virginia Housing's Universal Design standards:  
0% of Total Rental Units

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

If not, please explain:

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

**I. UTILITIES**

1. Utilities Types:

- a. Heating Type Gas Forced Air
- b. Cooking Type Gas
- c. AC Type Central Air
- d. Hot Water Type Gas

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

- |                 |              |                      |              |
|-----------------|--------------|----------------------|--------------|
| Water?.....     | <u>FALSE</u> | Heat?.....           | <u>FALSE</u> |
| Hot Water?..... | <u>FALSE</u> | AC?.....             | <u>FALSE</u> |
| Lighting?.....  | <u>FALSE</u> | Sewer?.....          | <u>FALSE</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	100	129	118	0
Air Conditioning	0	0	0	0	0
Cooking	0	0	0	0	0
Lighting	0	0	0	0	0
Hot Water	0	0	0	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	\$100	\$129	\$118	\$0

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

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

**Warning:** The Virginia Housing housing choice voucher program utility schedule shown on VirginiaHousing.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.

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

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

**FALSE**

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

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

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

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

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

(60 points)

**FALSE**

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

**TRUE**

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

**For items a,b or c, all common space must also conform to HUD regulations interpreting the accessibility requirements of section 504 of the Rehabilitation Act.**

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

2. **Special Housing Needs/Leasing Preference:**

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

**FALSE** Elderly (as defined by the United States Fair Housing Act.)

**FALSE** Persons with Disabilities (must meet the requirements of the Federal

K. SPECIAL HOUSING NEEDS

FALSE 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..... TRUE (If True, Virginia Housing 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 - Tab J)

3. Leasing Preferences

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

Organization which holds waiting list: Petersburg Housing and Revelopment Authority

Contact person: Leonard Muse

Title: Chairman

Phone Number: (804) 733-2200

Action: Provide required notification documentation (TAB L)

b. Leasing preference will be given to individuals and families with children..... TRUE (Less than or equal to 20% of the units must have of 1 or less bedrooms).

c. Specify the number of low-income units that will serve individuals and families with children by providing three or more bedrooms: 52 % of total Low Income Units 31%

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

3. Target Population Leasing Preference

Unless prohibited by an applicable federal subsidy program, each applicant shall commit to provide a leasing preference to individuals (i) in a target population identified in a memorandum of understanding between the Authority and one or more participating agencies of the Commonwealth, (ii) having a voucher or other binding commitment for rental assistance from the Commonwealth, and (iii) referred to the development by a referring agent approved by the Authority. The leasing preference shall not be applied to more than ten percent (10%) of the units in the development at any given time. The applicant may not impose tenant selection criteria or leasing terms with respect to individuals receiving this preference that are more restrictive than the applicant's tenant selection criteria or leasing terms applicable to prospective tenants in the development that do not receive this preference, the eligibility criteria for the rental assistance from the Commonwealth, or any eligibility criteria contained in a memorandum of understanding between the Authority and one or more participating agencies of the Commonwealth.



**K. SPECIAL HOUSING NEEDS**

**Primary Contact for Target Population leasing preference.** The agency will contact as needed.

First Name: Cartina

Last Name: Pinkney

Phone Number: (267) 804-5608

Email: cpinkney@mmsgroup.com

**4. Rental Assistance**

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

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

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

FALSE Section 8 New Construction Substantial Rehabilitation

FALSE Section 8 Moderate Rehabilitation

FALSE Section 8 Certificates

TRUE Section 8 Project Based Assistance

FALSE RD 515 Rental Assistance

FALSE Section 8 Vouchers  
\*Administering Organization:

FALSE State Assistance  
\*Administering Organization:

FALSE Other:

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

FALSE

i. If True above, how many of the 30% units will not have project based vouchers? 0

d. Number of units receiving assistance: 168

How many years in rental assistance contract? 20.00

Expiration date of contract: 5/1/2034

There is an Option to Renew..... TRUE

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

**L. UNIT DETAILS**

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

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

**a. Units Provided Per Household Type: Warning: Greater than 50% of units does not increase bonus points.**

Income Levels			Avg Inc.
# of Units	% of Units		
0	0.00%	20% Area Median	0%
0	0.00%	30% Area Median	0%
10	5.95%	40% Area Median	400%
158	94.05%	50% Area Median	7900%
0	0.00%	60% Area Median	0%
0	0.00%	70% Area Median	0%
0	0.00%	80% Area Median	0%
0	0.00%	Market Units	
168	100.00%	<b>Total</b>	49.40%

Rent Levels			Avg Inc.
# of Units	% of Units		
0	0.00%	20% Area Median	0%
0	0.00%	30% Area Median	0%
10	5.95%	40% Area Median	400%
158	94.05%	50% Area Median	7900%
0	0.00%	60% Area Median	0%
0	0.00%	70% Area Median	0%
0	0.00%	80% Area Median	0%
0	0.00%	Market Units	
168	100.00%	<b>Total</b>	49.40%

- 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 compliance?  
 20-30% Levels FALSE      40% Levels FALSE      50% levels FALSE

**2. Unit Detail FOR YOUR CONVENIENCE, COPY AND PASTE IS ALLOWED WITHIN UNIT MIX GRID**

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

**JDN** 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	50% AMI	23	2	13455.00	\$955.00	\$21,965
Mix 2	2 BR - 1.5 Bath	50% AMI	23	0	18055.00	\$1,030.00	\$23,690
Mix 3	2 BR - 1 Bath	50% AMI	60	6	45225.00	\$1,010.00	\$60,600
Mix 4	3 BR - 1.5 Bath	50% AMI	52	5	46592.00	\$1,240.00	\$64,480
Mix 5	1 BR - 1 Bath	40% AMI	5	0	2925.00	\$955.00	\$4,775
Mix 6	2 BR - 1 Bath	40% AMI	5	0	3925.00	\$1,030.00	\$5,150
Mix 7							\$0
Mix 8							\$0
Mix 9							\$0
Mix 10							\$0
Mix 11							\$0
Mix 12							\$0
Mix 13							\$0
Mix 14							\$0

**L. UNIT DETAILS**

Mix 15								\$0
Mix 16								\$0
Mix 17								\$0
Mix 18								\$0
Mix 19								\$0
Mix 20								\$0
Mix 21								\$0
Mix 22								\$0
Mix 23								\$0
Mix 24								\$0
Mix 25								\$0
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Mix 66								\$0
Mix 67								\$0
Mix 68								\$0

**L. UNIT DETAILS**

Mix 69							\$0
Mix 70							\$0
Mix 71							\$0
Mix 72							\$0
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>			168	13			\$180,660

<b>Total Units</b>	<b>168</b>	<b>Net Rentable SF:</b>	<b>TC Units</b>	<b>5,895,264.00</b>
			<b>MKT Units</b>	<b>0.00</b>
			<b>Total NR SF:</b>	<b>5,895,264.00</b>

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

**M. OPERATING EXPENSES**

**Administrative:**

Use Whole Numbers Only!

1. Advertising/Marketing			\$1,680
2. Office Salaries			\$45,004
3. Office Supplies			\$19,200
4. Office/Model Apartment	(type		\$0
5. Management Fee			\$82,784
<u>4.00%</u> of EGI	<u>\$492.76</u>	Per Unit	
6. Manager Salaries			\$65,000
7. Staff Unit (s)	(type		\$0
8. Legal			\$6,000
9. Auditing			\$8,500
10. Bookkeeping/Accounting Fees			\$10,080
11. Telephone & Answering Service			\$0
12. Tax Credit Monitoring Fee			\$5,880
13. Miscellaneous Administrative			\$8,254
<b>Total Administrative</b>			<b>\$252,382</b>

**Utilities**

14. Fuel Oil			\$0
15. Electricity			\$28,553
16. Water			\$41,580
17. Gas			\$26,259
18. Sewer			\$84,373
<b>Total Utility</b>			<b>\$180,765</b>

**Operating:**

19. Janitor/Cleaning Payroll			\$0
20. Janitor/Cleaning Supplies			\$24,000
21. Janitor/Cleaning Contract			\$39,000
22. Exterminating			\$8,645
23. Trash Removal			\$34,000
24. Security Payroll/Contract			\$84,000
25. Grounds Payroll			\$0
26. Grounds Supplies			\$0
27. Grounds Contract			\$0
28. Maintenance/Repairs Payroll			\$114,400
29. Repairs/Material			\$51,000
30. Repairs Contract			\$0
31. Elevator Maintenance/Contract			\$0
32. Heating/Cooling Repairs & Maintenance			\$12,000
33. Pool Maintenance/Contract/Staff			\$0
34. Snow Removal			\$0
35. Decorating/Payroll/Contract			\$0
36. Decorating Supplies			\$0
37. Miscellaneous			\$8,400
<b>Totals Operating &amp; Maintenance</b>			<b>\$375,445</b>

**Taxes & Insurance**

38. Real Estate Taxes			\$120,000
39. Payroll Taxes			\$17,405

**M. OPERATING EXPENSES**

40. Miscellaneous Taxes/Licenses/Permits	\$0
41. Property & Liability Insurance	\$64,477
42. Fidelity Bond	\$0
43. Workman's Compensation	\$2,850
44. Health Insurance & Employee Benefits	\$33,948
45. Other Insurance	\$0
<b>Total Taxes &amp; Insurance</b>	<b>\$238,680</b>
 <b>Total Operating Expense</b>	 <b>\$1,047,272</b>

<b>Total Operating Expenses Per Unit</b>	\$6,234	<b>C. Total Operating Expenses as % of EGI</b>	50.61%
--	---------	--	--------

<b>Replacement Reserves</b> (Total # Units X \$300 or \$250 New Const. Elderly Minimum)	\$58,800
---	----------

<b>Total Expenses</b>	\$1,106,072
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**ACTION:** Provide Documentation of Operating Budget at **Tab R** if applicable.

**N. PROJECT SCHEDULE**

ACTIVITY	ACTUAL OR ANTICIPATED DATE	NAME OF RESPONSIBLE PERSON
<b>1. SITE</b>		
a. Option/Contract		
b. Site Acquisition	4/1/2021	Scott Langan
c. Zoning Approval	n/a	
d. Site Plan Approval	n/a	
<b>2. Financing</b>		
<b>a. Construction Loan</b>		
i. Loan Application	n/a	
ii. Conditional Commitment	n/a	
iii. Firm Commitment	n/a	
<b>b. Permanent Loan - First Lien</b>		
i. Loan Application	5/15/2021	Tim Leonhard
ii. Conditional Commitment	6/14/2021	Tim Leonhard
iii. Firm Commitment	7/14/2021	Tim Leonhard
<b>c. Permanent Loan-Second Lien</b>		
i. Loan Application	n/a	
ii. Conditional Commitment	n/a	
iii. Firm Commitment	n/a	
<b>d. Other Loans &amp; Grants</b>		
i. Type & Source, List	n/a	
ii. Application	n/a	
iii. Award/Commitment	n/a	
<b>2. Formation of Owner</b>	12/11/2020	Scott Langan
<b>3. IRS Approval of Nonprofit Status</b>	n/a	
<b>4. Closing and Transfer of Property to Owner</b>	4/1/2021	Scott Langan
<b>5. Plans and Specifications, Working Drawings</b>	3/26/2021	Dyke Nelson
<b>6. Building Permit Issued by Local Government</b>	12/1/2021	Dyke Nelson
<b>7. Start Construction</b>	12/15/2021	Leon Mullinax
<b>8. Begin Lease-up</b>	12/15/2021	Chris McNerney
<b>9. Complete Construction</b>	12/31/2022	Leon Mullinax
<b>10. Complete Lease-Up</b>	12/31/2022	Chris McNerney
<b>11. Credit Placed in Service Date</b>	1/1/2022	Scott Langan

**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)	0	0	0	0
b. Unit Structures (Rehab)	10,749,863	0	10,749,863	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>	10,749,863	0	10,749,863	0
f. Earthwork	0	0	0	0
g. Site Utilities	0	0	0	0
h. Roads & Walks	0	0	0	0
i. Site Improvements	0	0	0	0
j. Lawns & Planting	0	0	0	0
k. Engineering	0	0	0	0
l. Off-Site Improvements	0	0	0	0
m. Site Environmental Mitigation	0	0	0	0
n. Demolition	0	0	0	0
o. Site Work	0	0	0	0
p. Other Site work	0	0	0	0
<b>Total Land Improvements</b>	0	0	0	0
<b>Total Structure and Land</b>	10,749,863	0	10,749,863	0
q. General Requirements	644,992	0	644,992	0
r. Builder's Overhead ( 2.0% Contract)	214,997	0	214,997	0
s. Builder's Profit ( 6.0% Contract)	644,992	0	644,992	0
t. Bonds	122,548	0	122,548	0
u. Building Permits	50,000	0	50,000	0
v. Special Construction	0	0	0	0
w. Special Equipment	0	0	0	0
x. Other 1: Construction Contingency	1,225,484	0	1,225,484	0
y. Other 2: FF&E	10,000	0	10,000	0
z. Other 3: Inspections & Engineering	55,000	0	55,000	0
<b>Contractor Costs</b>	<b>\$13,717,876</b>	<b>\$0</b>	<b>\$13,717,876</b>	<b>\$0</b>



**O. PROJECT BUDGET - OWNER COSTS**

**MUST USE WHOLE NUMBERS ONLY!**

Item	(A) Cost	Amount of Cost up to 100% Includable in Eligible Basis--Use Applicable Column(s):		
		"30% Present Value Credit"		(D)
		(B) Acquisition	(C) Rehab/ New Construction	"70 % Present Value Credit"
<b>2. Owner Costs</b>				
a. Building Permit	0	0	0	0
b. Architecture/Engineering Design Fee \$1,320 /Unit)	221,760	0	221,760	0
c. Architecture Supervision Fee \$330 /Unit)	55,440	0	55,440	0
d. Tap Fees	0	0	0	0
e. Environmental	120,000	0	120,000	0
f. Soil Borings	0	0	0	0
g. Green Building (Earthcraft, LEED, etc.)	0	0	0	0
h. Appraisal	7,500	0	0	0
i. Market Study	7,500	0	0	0
j. Site Engineering / Survey	36,000	36,000	0	0
k. Construction/Development Mgt	0	0	0	0
l. Structural/Mechanical Study	0	0	0	0
m. Construction Loan Origination Fee	35,000	0	0	0
n. Construction Interest ( 0.0% for 0 months)	408,457	0	408,457	0
o. Taxes During Construction	120,000	0	0	0
p. Insurance During Construction	64,477	0	0	0
q. Permanent Loan Fee ( 0.0% )	393,900	0	0	0
r. Other Permanent Loan Fees	0	0	0	0
s. Letter of Credit	0	0	0	0
t. Cost Certification Fee	15,000	0	15,000	0
u. Accounting	20,000	0	20,000	0
v. Title and Recording	125,000	0	0	0
w. Legal Fees for Closing	250,000	25,000	150,000	0
x. Mortgage Banker	0	0	0	0
y. Tax Credit Fee	86,304			
z. Tenant Relocation	725,000	0	0	0
aa. Fixtures, Furnitures and Equipment	0	0	0	0
ab. Organization Costs		0	0	0
ac. Operating Reserve	960,000	0	0	0
ad. Contingency	75,000	0	75,000	0
ae. Security	0	0	0	0
af. Utilities	0	0	0	0
(1) Other* specify: Physical Needs Assessment	15,000	0	15,000	0
(2) Other* specify: Rent Comparability Study	20,500	0	20,500	0
(3) Other* specify: Blueprints & Mailing	15,000	0	15,000	0
(4) Other* specify:		0	0	0
(5) Other* specify: Bonds Cost of Issuance	373,875	0	0	0
(6) Other* specify: Equity Underwriting / Due	55,000	0	0	0
(7) Other* specify: Acquisition Loan Costs	500,000	0	0	0

**O. PROJECT BUDGET - OWNER COSTS**

(8) Other* specify: Cap interest		0	0	0
(9) Other* specify: Broker Fee	110,000	0		0
(10) Other* specify: Prefunded Interest Reserve	186,667	0	0	0
Owner Costs Subtotal (Sum 2A..2(10))	\$5,002,380	\$61,000	\$1,116,157	\$0
<b>Subtotal 1 + 2</b> (Owner + Contractor Costs)	\$18,720,256	\$61,000	\$14,834,033	\$0
<b>3. Developer's Fees</b> Action: Provide Developer Fee Agreement (Tab A)	2,623,510	0	2,623,510	0
<b>4. Owner's Acquisition Costs</b>				
Land	1,090,000			
Existing Improvements	7,710,000	7,710,000		
Subtotal 4:	\$8,800,000	\$7,710,000		
<b>5. Total Development Costs</b>				
Subtotal 1+2+3+4:	\$30,143,766	\$7,771,000	\$17,457,543	\$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**)

\$1,090,000	Land
\$7,710,000	Building

**Maximum Developer Fee:**

**\$2,631,620**

Proposed Development's Cost per Sq Foot  
Applicable Cost Limit by Square Foot:

\$134 **Meets Limits**  
\$197

**2021 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):		
		(B) Acquisition	"30 % Present Value Credit"	(D) "70 % Present Value Credit"
			(C) Rehab/ New Construction	
<b>1. Total Development Costs</b>	30,143,766	7,771,000	17,457,543	0
<b>2. Reductions in Eligible Basis</b>				
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
<b>3. Total Eligible Basis (1 - 2 above)</b>		7,771,000	17,457,543	0
<b>4. Adjustment(s) to Eligible Basis (For non-acquisition costs in eligible basis)</b>				
a. For QCT or DDA (Eligible Basis x 30%) <i>State Designated Basis Boosts:</i>			5,237,263	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>			22,694,806	0
<b>5. Applicable Fraction</b>		100.00000%	100.00000%	100.00000%
<b>6. Total Qualified Basis</b> (Eligible Basis x Applicable Fraction)		7,771,000	22,694,806	0
<b>7. Applicable Percentage</b> <i>(Beginning in 2021, All Tax Exempt requests should use the standard 4% rate and all 9% requests should use the standard 9% rate.)</i>		4.00%	4.00%	9.00%
<b>8. Maximum Allowable Credit under IRC §42</b> (Qualified Basis x Applicable Percentage) (Must be same as BIN total and equal to or less than credit amount allowed)		\$310,840	\$907,792	\$0
			\$1,218,632 Combined 30% & 70% P. V. Credit	

**Q. SOURCES OF FUNDS**

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

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

Source of Funds	Date of Application	Date of Commitment	Amount of Funds	Name of Contact Person
1. Colliers EBL			\$3,500,000	Frank J. Hogan
2.				
3.				
Total Construction Funding:			\$3,500,000	

**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. Berkadia Freddie TEL			\$14,150,000	\$669,039	3.61%	40.00	17.00
2. Freddie Taxable Tail			\$3,100,000	\$149,285	3.73%	40.00	17.00
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
Total Permanent Funding:			\$17,250,000	\$818,324			

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

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

**4. Subsidized Funding**

Source of Funds	Date of Commitment	Amount of Funds
1.		
2.		

**Q. SOURCES OF FUNDS**

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	\$14,150,000
b.	RD 515	\$0
c.	Section 221(d)(3)	\$0
d.	Section 312	\$0
e.	Section 236	\$0
f.	VHDA SPARC/REACH	\$0
g.	HOME Funds	\$0
h.	Other:	\$0
i.	Other:	\$0

Market-Rate Loans

a.	Taxable Bonds	\$0
b.	Section 220	\$0
c.	Section 221(d)(3)	\$0
d.	Section 221(d)(4)	\$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.

**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: **53.76%**

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

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

Freddie Mac TEL

**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.



**R. EQUITY**

**1. Equity**

a. Portion of Syndication Proceeds Attributable to Historic Tax Credit				
Amount of Federal historic credits	<u>\$0</u>	x Equity \$	<u>\$0.000</u>	= <u>\$0</u>
Amount of Virginia historic credits	<u>\$0</u>	x Equity \$	<u>\$0.000</u>	= <u>\$0</u>

b. Equity that Sponsor will Fund:

i. Cash Investment	<u>\$0</u>	
ii. Contributed Land/Building	<u>\$0</u>	
iii. Deferred Developer Fee	<u>\$1,701,493</u>	(Note: Deferred Developer Fee cannot be negative.)
iv. Other: <u>Cash from Operations</u>	<u>\$408,457</u>	

**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** \$2,109,950

**2. Equity Gap Calculation**

a. Total Development Cost	\$30,143,766
b. Total of Permanent Funding, Grants and Equity	- <u>\$19,359,950</u>
c. Equity Gap	<u>\$10,783,816</u>
d. Developer Equity	- <u>\$2</u>
e. Equity gap to be funded with low-income tax credit proceeds	\$10,783,814

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

a. Actual or Anticipated Name of Syndicator:	<u>CREA</u>		
Contact Person:	<u>Daniel Kirkpatrick</u>	Phone:	<u>(949) 510-2112</u>
Street Address:	<u>12396 World Trade Dr Ste 218</u>		
City:	<u>San Diego</u>	State:	<u></u>
		Zip:	<u>92128</u>

b. Syndication Equity

i. Anticipated Annual Credits	<u>\$1,218,632.00</u>
ii. Equity Dollars Per Credit (e.g., \$0.85 per dollar of credit)	<u>\$0.885</u>
iii. Percent of ownership entity (e.g., 99% or 99.9%)	<u>99.99000%</u>
iv. Syndication costs not included in Total Development Costs (e.g., advisory fees)	<u>\$0</u>
v. Net credit amount anticipated by user of credits	<u>\$1,218,510</u>
vi. Total to be paid by anticipated users of credit (e.g., limited partners)	<u>\$10,783,814</u>

c. Syndication:	<u>Private</u>
d. Investors:	<u>Corporate</u>

**4. Net Syndication Amount**

Which will be used to pay for Total Development Costs \$10,783,814

**5. Net Equity Factor**

Must be equal to or greater than 85% 88.4999941676%

**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 Virginia Housing to determine, as required by the IRC, the amount of credits which may be allocated for the development. However, Virginia Housing at all times retains the right to substitute such information and assumptions as are determined by Virginia Housing 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 Virginia Housing for a reservation of credits, the amount of such reservation may differ significantly from the amount you compute below.

1. Total Development Costs		<u>\$30,143,766</u>
2. Less Total of Permanent Funding, Grants and Equity	-	<u>\$19,359,950</u>
3. Equals Equity Gap		<u>\$10,783,816</u>
4. Divided by Net Equity Factor (Percent of 10-year credit expected to be raised as equity investment)		<u>88.4999941676%</u>
5. Equals Ten-Year Credit Amount Needed to Fund Gap		<u>\$12,185,104</u>
Divided by ten years		<u>10</u>
6. Equals Annual Tax Credit Required to Fund the Equity Gap		<u>\$1,218,510</u>
7. Maximum Allowable Credit Amount (from Eligible Basis Calculation)		<u>\$1,218,632</u>
8. Requested Credit Amount	For 30% PV Credit:	<u>\$1,218,632.00</u>
	For 70% PV Credit:	<u>\$0</u>
Credit per LI Units	<u>\$7,253.7619</u>	
Credit per LI Bedroom	<u>#DIV/0!</u>	
	<b>Combined 30% &amp; 70% PV Credit Requested</b>	<b>\$1,218,632</b>

**ERROR - EQUITY GAP AMOUNT NOT EQUAL TO RESERVATION AMOUNT**

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	\$180,660
Plus Other Income Source (list): <u>Laundry and Vending</u>	\$840
Equals Total Monthly Income:	\$181,500
Twelve Months	x12
Equals Annual Gross Potential Income	\$2,178,000
Less Vacancy Allowance <u>5.0%</u>	\$108,900
<b>Equals Annual Effective Gross Income (EGI) - Low Income Units</b>	<b>\$2,069,100</b>

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

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

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

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

a. Annual EGI Low-Income Units	\$2,069,100
b. Annual EGI Market Units	\$0
c. Total Effective Gross Income	\$2,069,100
d. Total Expenses	\$1,106,072
e. Net Operating Income	\$963,028
f. Total Annual Debt Service	\$818,324
g. Cash Flow Available for Distribution	\$144,704

**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>	2,069,100	2,110,482	2,152,692	2,195,745	2,239,660
<b>Less Oper. Expenses</b>	1,106,072	1,139,254	1,173,432	1,208,635	1,244,894
<b>Net Income</b>	963,028	971,228	979,260	987,111	994,767
<b>Less Debt Service</b>	818,324	818,324	818,324	818,324	818,324
<b>Cash Flow</b>	144,704	152,904	160,936	168,787	176,443
<b>Debt Coverage Ratio</b>	1.18	1.19	1.20	1.21	1.22

	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Eff. Gross Income</b>	2,284,454	2,330,143	2,376,746	2,424,280	2,472,766
<b>Less Oper. Expenses</b>	1,282,241	1,320,708	1,360,329	1,401,139	1,443,173
<b>Net Income</b>	1,002,213	1,009,435	1,016,416	1,023,142	1,029,593

**T. CASH FLOW**

<b>Less Debt Service</b>	818,324	818,324	818,324	818,324	818,324
<b>Cash Flow</b>	183,889	191,111	198,092	204,818	211,269
<b>Debt Coverage Ratio</b>	1.22	1.23	1.24	1.25	1.26

	<b>Year 11</b>	<b>Year 12</b>	<b>Year 13</b>	<b>Year 14</b>	<b>Year 15</b>
<b>Eff. Gross Income</b>	2,522,221	2,572,666	2,624,119	2,676,601	2,730,134
<b>Less Oper. Expenses</b>	1,486,468	1,531,062	1,576,994	1,624,304	1,673,033
<b>Net Income</b>	1,035,753	1,041,603	1,047,125	1,052,297	1,057,100
<b>Less Debt Service</b>	818,324	818,324	818,324	818,324	818,324
<b>Cash Flow</b>	217,429	223,279	228,801	233,973	238,776
<b>Debt Coverage Ratio</b>	1.27	1.27	1.28	1.29	1.29

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: 16

Total Qualified Basis should equal total on Elig Basis Tab

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

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.	VA0328001	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
2.	VA0328002	16	0	110 Croatan Drive		Petersburg	VA	23803	\$813,581	12/31/22	100.00%	\$813,581	\$1,728,303	12/31/22	100.00%	\$1,728,303				\$0	
3.	VA0328003	12	0	110 Croatan Drive		Petersburg	VA	23803	\$610,186	12/31/22	100.00%	\$610,186	\$1,296,227	12/31/22	100.00%	\$1,296,227				\$0	
4.	VA0328004	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
5.	VA0328005	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
6.	VA0328006	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
7.	VA0328007	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
8.	VA0328008	16	0	110 Croatan Drive		Petersburg	VA	23803	\$813,581	12/31/22	100.00%	\$813,581	\$1,728,303	12/31/22	100.00%	\$1,728,303				\$0	
9.	VA0328009	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
10.	VA0328010	8	0	110 Croatan Drive		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
11.	VA0230001	12	0	2355 Navajo Court		Petersburg	VA	23803	\$610,186	12/31/22	100.00%	\$610,186	\$1,296,227	12/31/22	100.00%	\$1,296,227				\$0	
12.	VA0230002	24	0	2355 Navajo Court		Petersburg	VA	23803	\$1,220,370	12/31/22	100.00%	\$1,220,370	\$2,592,454	12/31/22	100.00%	\$2,592,454				\$0	
13.	VA0230003	8	0	2355 Navajo Court		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
14.	VA0230004	8	0	2355 Navajo Court		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
15.	VA0230005	8	0	2355 Navajo Court		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$0	
16.	VA0230006	8	0	2355 Navajo Court		Petersburg	VA	23803	\$406,790	12/31/22	100.00%	\$406,790	\$684,151	12/31/22	100.00%	\$684,151				\$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	
		168	0	Totals from all buildings					\$8,542,594				\$16,167,175				\$0				\$0

Qualified basis should not exceed values on Elig Basis.

Number of BINS: 16

**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 Virginia Housing and its assigns against all losses, costs, damages, Virginia Housing's expenses, and liabilities of any nature directly or indirectly resulting from, arising out of, or relating to Virginia Housing'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 Virginia Housing 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 Virginia Housing 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 Virginia Housing 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, Virginia Housing 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 Virginia Housing 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 Virginia Housing at its sole discretion.
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 Virginia Housing 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.

**V. STATEMENT OF OWNER**

- 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 Virginia Housing's inability to process the application. The original or copy of this application may be retained by Virginia Housing, 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: Petersburg East Housing Partners, LP  
a Virginia Limited Partnership

By:   
Its: Executive Vice President  
(Title)

**V. STATEMENT OF ARCHITECT**

The architect signing this document is certifying that the development plans and specifications incorporate all Virginia Housing 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:	J. Dyke Nelson
Virginia License#:	0401017290
Architecture Firm or Company:	DNA Workshop

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

Its: Managing Member/Architect  
(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 the reservation application. Other items, denoted below in the yellow shaded cells, are typically evaluated by Virginia Housing'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. Virginia Housing reserves the right to change application data and/or score sheet responses where appropriate, which may change the final score.

**MANDATORY ITEMS:**

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

	Included		Score
a.	Y	Y or N	0
b.	Y	Y or N	0
c.	Y	Y or N	0
d.	Y	Y or N	0
e.	Y	Y or N	0
f.	Y	Y or N	0
g.	Y	Y or N	0
h.	Y	Y or N	0
i.	N/A	Y, N, N/A	0
j.	Y	Y or N	0
k.	Y	Y or N	0
l.	Y	Y or N	0
m.	Y	Y or N	0
<b>Total:</b>			<b>0.00</b>

**1. READINESS:**

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

Y	0 or -50	0.00
N	0 or -25	0.00
N	0 or 40	0.00
Y	0 or 10	10.00
N	0 or 15	0.00
N	0 or 15	0.00
<b>Total:</b>		<b>10.00</b>

**2. HOUSING NEEDS CHARACTERISTICS:**

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

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

**3. DEVELOPMENT CHARACTERISTICS:**

- a. Enhancements (See calculations below) 44.00
- b. Project subsidies/HUD 504 accessibility for 5 or 10% of units
- or c. HCV Payment Standard/HUD 504 accessibility for 5 or 10% of units
- or d. HUD 504 accessibility for 5% of units
- e. Proximity to public transportation (within Northern VA or Tidewater)
- f. Development will be Green Certified
- g. Units constructed to meet Virginia Housing's Universal Design standards

N	0 or 60	0.00
N	0 or 30	0.00
Y	0 or 15	15.00
Y10	0, 10 or 20	10.00
N	0 or 10	0.00
0%	Up to 15	0.00

h. Developments with less than 100 units	N	up to 20	0.00
i. Historic Structure	N	0 or 5	0.00
Total:			<u>69.00</u>

4. TENANT POPULATION CHARACTERISTICS:

Locality AMI	State AMI
\$89,400	\$62,300

a. Less than or equal to 20% of units having 1 or less bedrooms	Y	0 or 15	15.00
b. <plus> Percent of Low Income units with 3 or more bedrooms	30.95%	Up to 15	15.00
c. Units with rent at or below 30% of AMI and are not subsidized (up to 10% of LI units)	0.00%	Up to 10	0.00
d. Units with rents at or below 40% of AMI (up to 10% of LI units)	5.95%	Up to 10	5.95
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>85.95</u>

5. SPONSOR CHARACTERISTICS:

a. Developer experience - 3 developments with 3 x units or 6 developments with 1 x units	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 Virginia Housing	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	106.49
b. Cost per unit		Up to 100	-4.44
Total:			<u>102.05</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: 337.00**

**Enhancements:**

All units have:	Max Pts	Score
a. Community Room	5	5.00
b. Exterior walls constructed with brick and other low maintenance materials	25	25.00
c. Sub metered water expense	5	0.00
d. Watersense labeled faucets, toilets and showerheads	3	3.00
e. Infrastructure for high speed internet/broadband	1	0.00
f. Free WiFi Access in community room	4	4.00
g. Each unit provided free individual high speed internet access	6	0.00
h. Each unit provided free individual WiFi	8	0.00
i. Bath Fan - Delayed timer or continuous exhaust	3	3.00
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	2.00
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	2.00
r. Shelf or Ledge at entrance within interior hallway	2	0.00
s. New Construction: Balcony or patio	4	0.00
		44.00
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
		0.00
<b>Total amenities:</b>		<b>44.00</b>

X. Development Summary

Summary Information 2021 Low-Income Housing Tax Credit Application For Reservation

**Deal Name:** Petersburg East I & II Apartments

**Cycle Type:** 4% Tax Exempt Bonds Credits **Requested Credit Amount:** \$1,218,632  
**Allocation Type:** Acquisition/Rehab **Jurisdiction:** Petersburg City  
**Total Units:** 168 **Population Target:** General  
**Total LI Units:** 168  
**Project Gross Sq Ft:** 159,574.00 **Owner Contact:** Brooke Shorett  
**Green Certified?** FALSE

<b>Total Score</b> 337.00
------------------------------

Source of Funds	Amount	Per Unit	Per Sq Ft	Annual Debt Service
Permanent Financing	\$17,250,000	\$102,679	\$108	\$818,324

Uses of Funds - Actual Costs				
Type of Uses	Amount	Per Unit	Sq Ft	% of TDC
Improvements	\$10,749,863	\$63,987	\$67	35.66%
General Req/Overhead/Profit	\$1,504,981	\$8,958	\$9	4.99%
Other Contract Costs	\$1,463,032	\$8,709	\$9	4.85%
Owner Costs	\$5,002,380	\$29,776	\$31	16.60%
Acquisition	\$8,800,000	\$52,381	\$55	29.19%
Developer Fee	\$2,623,510	\$15,616	\$16	8.70%
<b>Total Uses</b>	<b>\$30,143,766</b>	<b>\$179,427</b>		

Total Development Costs	
Total Improvements	\$18,720,256
Land Acquisition	\$8,800,000
Developer Fee	\$2,623,510
<b>Total Development Costs</b>	<b>\$30,143,766</b>

Income	
Gross Potential Income - LI Units	\$2,178,000
Gross Potential Income - Mkt Units	\$0
Subtotal	\$2,178,000
Less Vacancy %	5.00%
<b>Effective Gross Income</b>	<b>\$2,069,100</b>

**Proposed Cost Limit/Sq Ft:** \$134  
**Applicable Cost Limit/Sq Ft:** \$197

Unit Breakdown	
Supp Hsg	0
# of Eff	0
# of 1BR	28
# of 2BR	88
# of 3BR	52
# of 4+ BR	0
<b>Total Units</b>	<b>168</b>

**Rental Assistance?** TRUE

Expenses		
Category	Total	Per Unit
Administrative	\$252,382	\$1,502
Utilities	\$180,765	\$1,076
Operating & Maintenance	\$375,445	\$2,235
Taxes & Insurance	\$238,680	\$1,421
<b>Total Operating Expenses</b>	<b>\$1,047,272</b>	<b>\$6,234</b>
Replacement Reserves	\$58,800	\$350
<b>Total Expenses</b>	<b>\$1,106,072</b>	<b>\$6,584</b>

	Income Levels	Rent Levels
	# of Units	# of Units
<=30% AMI	0	0
40% AMI	10	10
50% AMI	158	158
60% AMI	0	0
>60% AMI	0	0
Market	0	0

Cash Flow	
EGI	\$2,069,100
Total Expenses	\$1,106,072
<b>Net Income</b>	<b>\$963,028</b>
Debt Service	\$818,324
<b>Debt Coverage Ratio (YR1):</b>	<b>1.18</b>

**Income Averaging?** FALSE

**Extended Use Restriction?** 30

**2021 Low-Income Housing Tax Credit Application For Reservation**

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Virginia Housing is running a BETA test of new EUR calculations that will be considered for implementation in 2022. These points are only a test and will not be used for scoring purposes in 2021. Please contact [taxcreditapps@virginiahousing.com](mailto:taxcreditapps@virginiahousing.com) with questions or comments.

**Credit Points:**

If the Combined Max Allowable is \$500,000 and the annual credit requested is \$200,000, you are providing a 60% savings for the program. This deal would receive all 200 credit points.

For another example, the annual credit requested is \$300,000 or a 40% savings for the program. Using a sliding scale, the credit points would be calculated by the difference between your savings and the desired 60% savings. Your savings divided by the goal of 60% times the max points of 200. In this example,  $(40\%/60\%) \times 200$  or 133.33 points.

<b>Using Current E-U-R method (up to 200)</b>		106.49
<b>Using proposed method:</b>		
Combined Max	\$1,218,632	
Credit Requested	\$1,218,632	
% of Savings	0.00%	
Sliding Scale Points		0
<i>Difference</i>		-106.49

**Cost Points:**

If the Applicable Cost by Square foot is \$238 and the deal’s Proposed Cost by Square Foot was \$119, you are saving 50% of the applicable cost. This deal would receive all 100 credit points.

For another example, the Applicable Cost by SqFt is \$238 and the deal’s Proposed Cost is \$153.04 or a savings of 35.70%. Using a sliding scale, your points would be calculated by the difference between your savings and the desired 50% savings. Your savings divided by the goal of 50% times the max points 100. In this example,  $(35.7\%/50\%) \times 100$  or 71.40 points.

<b>Using Current E-U-R method (up to 100)</b>		-4.44
<b>Using proposed method:</b>		
Total Costs Less Acquisition	\$21,343,766	
Total Square Feet	159,574.00	
Proposed Cost per SqFt	\$133.75	
Applicable Cost Limit per Sq Ft	\$197.00	
% of Savings	32.10%	
Sliding Scale Points		64.20
<i>Difference</i>		68.64

\$/SF = **\$275.35** Credits/SF = **9.367391** Const \$/unit = **\$81,654.0238**

TYPE OF PROJECT  
LOCATION  
TYPE OF CONSTRUCTION

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

**11000**  
**400**  
**3**

In  
Nova  
**400**  
**3**

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

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

	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	585.00	753.75	896.00	0.00	782.00	0.00	0.00
NUMBER OF UNITS	0	28	60	52	0	28	0	0
PARAMETER-(COSTS=>35,000)	0	157,500	213,750	230,625	0	183,000	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	157,500	213,750	230,625	0	183,000	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	157,500	213,750	230,625	0	183,000	0	0
PROJECT COST PER UNIT	0	161,077	207,542	246,710	0	215,320	0	0
PARAMETER-(CREDITS=>35,000)	0	11,550	15,675	16,913	0	16,500	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	11,550	15,675	16,913	0	16,500	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	11,550	15,675	16,913	0	16,500	0	0
PROJECT CREDIT PER UNIT	0	5,480	7,061	8,393	0	7,325	0	0
<b>COST PER UNIT POINTS</b>	<b>0.00</b>	<b>-0.38</b>	<b>1.04</b>	<b>-2.16</b>	<b>0.00</b>	<b>-2.94</b>	<b>0.00</b>	<b>0.00</b>
<b>CREDIT PER UNIT POINTS</b>	<b>0.00</b>	<b>17.52</b>	<b>39.25</b>	<b>31.18</b>	<b>0.00</b>	<b>18.53</b>	<b>0.00</b>	<b>0.00</b>

TOTAL COST PER UNIT POINTS **-4.44**

TOTAL CREDIT PER UNIT POINTS **106.49**

Cost Parameters - Elderly

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

Credit Parameters - Elderly

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

Cost Parameters - General

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Parameter - low rise	0	157,500	213,750	230,625	0	183,000	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>157,500</b>	<b>213,750</b>	<b>230,625</b>	<b>0</b>	<b>183,000</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
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Standard Credit Parameter - low rise	0	11,550	15,675	16,913	0	16,500	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>11,550</b>	<b>15,675</b>	<b>16,913</b>	<b>0</b>	<b>16,500</b>	<b>0</b>	<b>0</b>

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

Cost Parameters - Elderly							
Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST	
Standard Cost Parameter - low rise	0	0	0	0	0	0	
Parameter Adjustment - mid rise	0	0	0	0	0	0	
Parameter Adjustment - high rise	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>	

Credit Parameters - Elderly							
Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST	
Standard Cost Parameter - low rise	0	0	0	0	0	0	
Parameter Adjustment - mid rise	0	0	0	0	0	0	
Parameter Adjustment - high rise	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>	

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	157,500	213,750	230,625	0	183,000	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>157,500</b>	<b>213,750</b>	<b>230,625</b>	<b>0</b>	<b>183,000</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	11,550	15,675	16,913	0	16,500	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>11,550</b>	<b>15,675</b>	<b>16,913</b>	<b>0</b>	<b>16,500</b>	<b>0</b>

\$/SF = **\$275.35** Credits/SF = **9.367391** Const \$/unit = **\$81,654.02**

TYPE OF PROJECT  
LOCATION  
TYPE OF CONSTRUCTION

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

**11000**  
**400**  
**3**

**400**  
**3**

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

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

	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	585.00	753.75	896.00	0.00	782.00	0.00	0.00
NUMBER OF UNITS	0	28	60	52	0	28	0	0
PARAMETER-(COSTS>=35,000)	0	157,500	213,750	230,625	0	183,000	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS>=50,000)	0	157,500	213,750	230,625	0	183,000	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	157,500	213,750	230,625	0	183,000	0	0
PROJECT COST PER UNIT	0	161,077	207,542	246,710	0	215,320	0	0
PARAMETER-(CREDITS>=35,000)	0	11,550	15,675	16,913	0	16,500	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS>=50,000)	0	11,550	15,675	16,913	0	16,500	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	11,550	15,675	16,913	0	16,500	0	0
PROJECT CREDIT PER UNIT	0	5,480	7,061	8,393	0	7,325	0	0
<b>COST PER UNIT POINTS</b>	<b>0.00</b>	<b>-0.38</b>	<b>1.04</b>	<b>-2.16</b>	<b>0.00</b>	<b>-2.94</b>	<b>0.00</b>	<b>0.00</b>
<b>CREDIT PER UNIT POINTS</b>	<b>0.00</b>	<b>17.52</b>	<b>39.25</b>	<b>31.18</b>	<b>0.00</b>	<b>18.53</b>	<b>0.00</b>	<b>0.00</b>

TOTAL COST PER UNIT POINTS **-4.44**

TOTAL CREDIT PER UNIT POINTS **106.49**

Cost Parameters - Elderly

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

Credit Parameters - Elderly

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

Cost Parameters - General

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Parameter - low rise	0	157,500	213,750	230,625	0	183,000	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>157,500</b>	<b>213,750</b>	<b>230,625</b>	<b>0</b>	<b>183,000</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
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Standard Credit Parameter - low rise	0	11,550	15,675	16,913	0	16,500	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>11,550</b>	<b>15,675</b>	<b>16,913</b>	<b>0</b>	<b>16,500</b>	<b>0</b>	<b>0</b>

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

Cost Parameters - Elderly							
Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST	
Standard Cost Parameter - low rise	0	0	0	0	0	0	
Parameter Adjustment - mid rise	0	0	0	0	0	0	
Parameter Adjustment - high rise	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>	

Credit Parameters - Elderly							
Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST	
Standard Cost Parameter - low rise	0	0	0	0	0	0	
Parameter Adjustment - mid rise	0	0	0	0	0	0	
Parameter Adjustment - high rise	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>	

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	157,500	213,750	230,625	0	183,000	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>157,500</b>	<b>213,750</b>	<b>230,625</b>	<b>0</b>	<b>183,000</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	11,550	15,675	16,913	0	16,500	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>11,550</b>	<b>15,675</b>	<b>16,913</b>	<b>0</b>	<b>16,500</b>	<b>0</b>

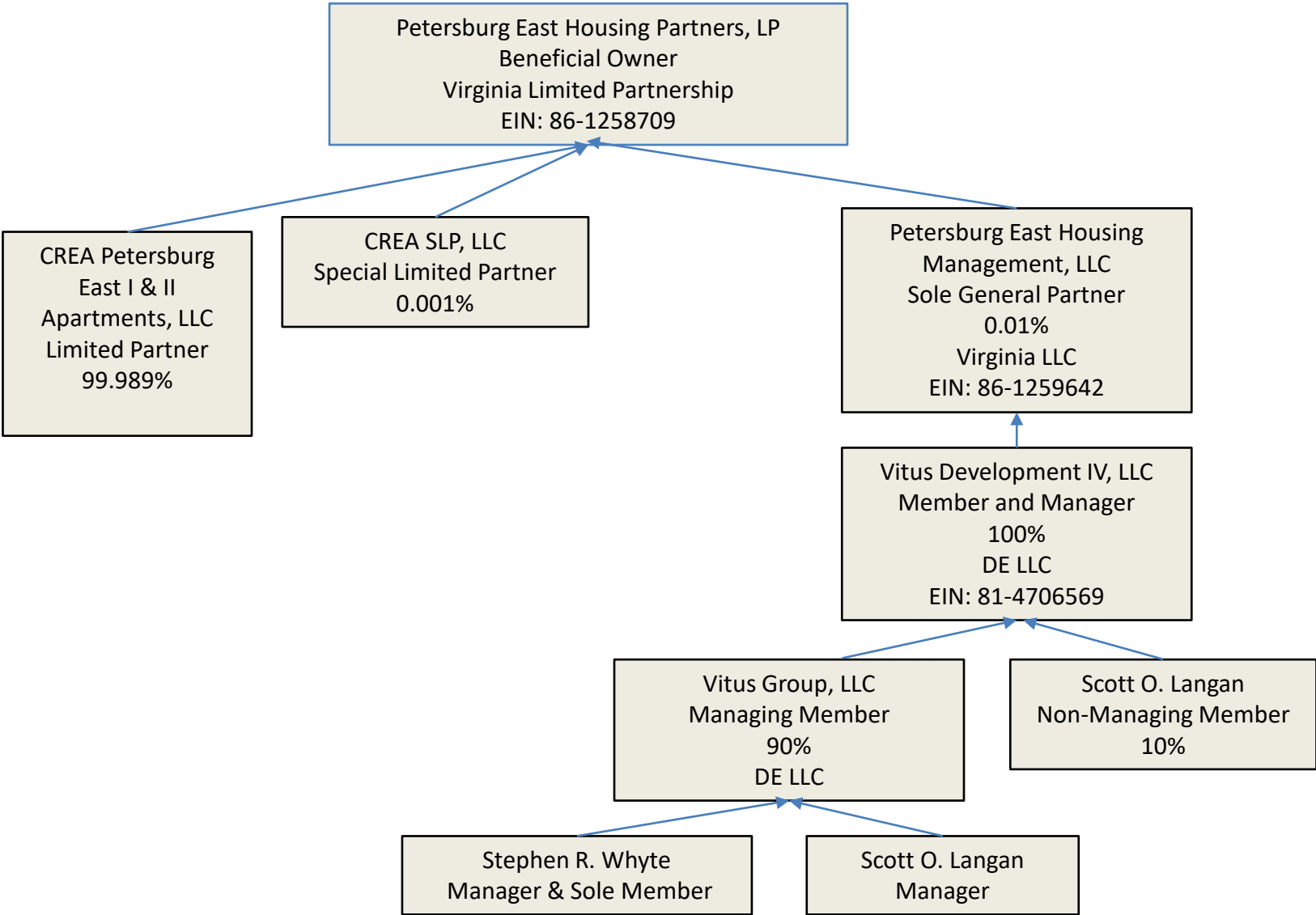
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# Partnership or Operating Agreement

Including **chart of ownership structure with percentage of interests** and **draft developer fee agreement**  
(MANDATORY)



# Petersburg East I & II (Petersburg, VA) ORGANIZATIONAL CHART



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**AGREEMENT OF LIMITED PARTNERSHIP**  
**OF**  
**PETERSBURG EAST HOUSING PARTNERS, LP**  
*a Virginia Limited Partnership*

**DATED AS OF DECEMBER 11, 2020**

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**AGREEMENT OF LIMITED PARTNERSHIP  
OF  
PETERSBURG EAST HOUSING PARTNERS, LP  
*A Virginia Limited Partnership***

This Agreement of Limited Partnership (the "**Agreement**") is entered into effective as of December 11, by and between Petersburg East Housing Management, LLC, a Virginia limited liability company (the "**General Partner**") and Stephen R. Whyte, an individual (the "**Limited Partner**"). The General Partner and the Limited Partner are sometimes herein referred to individually as a "**Partner**" and collectively as the "**Partners**."

By this Agreement, the parties form a limited partnership (the "Partnership") pursuant to the Title 50, Chapter 2.1 of the Code of Virginia and agree to the following terms and conditions:

**Article 1.** The name of this Partnership shall be Petersburg East Housing Partners, LP.

**Article 2.** The purpose of this Partnership is to finance, rehabilitate, construct, own and operate that certain multifamily apartment complex intended for rental to residents of low income in the City of Petersburg, Commonwealth of Virginia and engage in any activities reasonably related thereto, including, without limitation, the merger of the Partnership with any other entity as determined in its sole discretion by the General Partner.

**Article 3.** No Partner is required to make an initial capital contribution to the Partnership.

**Article 4.** The General Partner has the authority to execute any and all partnership and loan documents relating to the financing, rehabilitation, construction, ownership and operation of the Project on behalf of the Partnership.

**Article 5.** The General Partner has the exclusive power and authority to conduct the management of the business of the Partnership, including, without limitation, to merge the Partnership with and into any other entity as determined by the General Partner in its sole discretion, without the vote or consent of the Limited Partner. The Limited Partner shall not participate in nor have any voice in the control of the business of the Partnership.

**Article 6.** Profits and losses of the Partnership shall be allocated among the Partners in accordance with the following percentage interests ("**Percentage Interests**"):

General Partner	99%
Limited Partner	1%
Total	<hr/> 100.00 <hr/>

**Article 7.** Cash distributions of the Partnership shall be made when determined by the General Partner, in its sole and absolute discretion, to the Partners in accordance with their Percentage Interests.

**Article 8.** The Partnership shall commence on the day the Certificate of Limited Partnership is filed and shall continue in perpetuity unless earlier dissolved in accordance with applicable law or by agreement of the partners.

**Article 9.** This Agreement shall be governed by and constructed in accordance with the laws of the State of Virginia.

THE LIMITED PARTNERSHIP INTEREST EVIDENCED BY THIS AGREEMENT HAS NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933 (the "**ACT**") OR PURSUANT TO APPLICABLE STATE SECURITIES LAWS (the "**BLUE SKY LAWS**"). ACCORDINGLY, THE LIMITED PARTNERSHIP INTEREST CANNOT BE RESOLD OR TRANSFERRED BY ANY PURCHASER THEREOF WITHOUT REGISTRATION OF THE SAME UNDER THE ACT AND THE BLUE SKY LAWS OF SUCH STATE(S) AS MAY BE APPLICABLE, OR IN A TRANSACTION WHICH IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND THE BLUE SKY LAWS OR WHICH IS OTHERWISE IN COMPLIANCE THEREWITH.


[The remainder of this page has been intentionally left blank]

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

GENERAL PARTNER:

PETERSBURG EAST HOUSING  
MANAGEMENT, LLC, a Virginia limited liability  
company

By: Vitus Development IV, LLC, a Delaware  
limited liability company,  
Its Manager

By:   
\_\_\_\_\_  
Stephen R. Whyte, President

LIMITED PARTNER:

  
\_\_\_\_\_  
STEPHEN R. WHYTE

**PETERSBURG EAST HOUSING PARTNERS, LP**  
**A VIRGINIA LIMITED PARTNERSHIP**  
**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

October [\_\_\_], 2021

**GENERAL PARTNER:**                   **PETERSBURG EAST HOUSING MANAGEMENT,  
LLC**  
**415 1st Avenue North #19240**  
**Seattle, Washington 98109**

**LIMITED PARTNER:**                   **CREA PETERSBURG EAST I AND II, LLC**  
**30 South Meridian Street, Suite 400**  
**Indianapolis, Indiana 46204**

**SPECIAL LIMITED:**  
**PARTNER:**                               **CREA SLP, LLC**  
**30 South Meridian Street, Suite 400**  
**Indianapolis, Indiana 46204**

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**PETERSBURG EAST HOUSING PARTNERS, LP  
A VIRGINIA LIMITED PARTNERSHIP**

**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP is made and entered into as of [\_\_\_\_\_] [\_\_\_\_], 2021, by and among PETERSBURG EAST HOUSING MANAGEMENT, LLC, a Virginia limited liability company (the “General Partner”), CREA PETERSBURG EAST I AND II, LLC, a Delaware limited liability company (the “Limited Partner”), CREA SLP, LLC, an Indiana limited liability company (the “Special Limited Partner”), and STEPHEN R. WHYTE, an individual (the “Withdrawing Limited Partner”).

**RECITALS**

WHEREAS, the General Partner, as general partner, executed a Certificate of Limited Partnership (the “Certificate”) for the formation of PETERSBURG EAST HOUSING PARTNERS, LP (the “Partnership”) pursuant to the terms of the Virginia Revised Uniform Limited Partnership Act (the “Act”), which Certificate was subsequently filed with the State Corporation Commission of the Commonwealth of Virginia (the “State of Formation”) on December 11, 2020;

WHEREAS, the General Partner, the Limited Partner and the Special Limited Partner wish to continue the Partnership pursuant to the Act;

WHEREAS, the Partnership has been formed to acquire, develop, finance, rehabilitate, own, maintain and operate a 168-unit multifamily Project Property, which will be for rental to individuals and families of low-income, known as Petersburg East I and II, and located in Petersburg, Virginia;

WHEREAS, the parties hereto now desire to enter into this Partnership Agreement to (i) continue the Partnership under the Act; (ii) withdraw the Withdrawing Limited Partner from the Partnership; (iii) admit the Limited Partner and the Special Limited Partner to the Partnership as limited partners and (iv) set forth all of the provisions governing the Partnership.

NOW, THEREFORE, in consideration of the foregoing, of mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree to continue the Partnership pursuant to the Act, as set forth in this Partnership Agreement, which reads in its entirety as follows:

**ARTICLE 1  
ORGANIZATION**

**Section 1.1 Continuation of Partnership.** The Partnership was formed as of December 11, 2020 by the filing of the Certificate. The Partnership’s original partnership agreement was entered into as of December 11, 2020 by and between the General Partner, as general partner, and the Withdrawing Limited Partner, as limited partner (the “Original Agreement”). The General Partner, the Limited Partner and the Special Limited Partner desire to and do hereby amend and

restate the Original Agreement in its entirety to admit the Limited Partner and the Special Limited Partner upon the terms and conditions set forth in this Agreement.

By its execution of this Agreement, the Withdrawing Limited Partner hereby withdraws from the Partnership, and the Withdrawing Limited Partner, as such, shall have no interest or rights in the Partnership and furthermore acknowledges, represents and warrants that he has no claims or rights against the Partnership as a former Partner as of the date of this Agreement.

**Section 1.2 Character and Purpose of Business.** The general character and purpose of the business of the Partnership shall be to: (a) acquire, rehabilitate, own, finance, lease and operate the Project Property as a qualified low income housing project within the meaning of the Code; (b) eventually sell or otherwise dispose of the Project Property in a manner consistent with the provisions of this Partnership Agreement; and (c) engage in all other activities incidental or related thereto.

**Section 1.3 Name of Partnership.** The name of the Partnership is “Petersburg East Housing Partners, LP.”

**Section 1.4 Principal Place of Business.** The address of the principal place of business of the Partnership shall be 1700 Seventh Avenue, Suite 2000, Seattle, Washington 98101, or such other address as may from time to time be selected by the Partners.

**Section 1.5 Principal Office.** The address of the principal office of the Partnership in Virginia shall be at such address as may from time to time be selected by the Partners.

**Section 1.6 Agent for Service of Process.** CT Corporation System shall be the Partnership’s agent for service of process. The agent’s address for such purpose shall be 4701 Cox Road, Suite 285, Glen Allen, Virginia 23060 or such other address as the Partners may select from time to time.

**Section 1.7 Name and Address of General Partner.** The name and address of the General Partner are as follows:

Petersburg East Housing Management, LLC  
415 1st Avenue North #19240  
Seattle, Washington 98109

**Section 1.8 Names and Addresses of Limited Partner and Special Limited Partner.**

The name and address of the Limited Partner are as follows:

CREA Petersburg East I and II, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

The name and address of the Special Limited Partner are as follows:

CREA SLP, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

**Section 1.9 Governmental Filings.** The General Partner shall make all governmental filings as are necessary or appropriate to qualify the Partnership to do or continue to do business in the State and any other jurisdiction or to otherwise carry out the purposes and intent of this Partnership Agreement. In addition, the General Partner shall timely and properly file of record the Restrictive Covenant.

**Section 1.10 Term of Partnership.** The term of the Partnership began on December 11, 2020 (the date on which the Partnership's certificate of limited partnership was first filed with the State Corporation Commission of the Commonwealth of Virginia) and the Partnership shall continue in existence in perpetuity, unless it is earlier dissolved and terminated pursuant to the provisions of this Partnership Agreement.

**Section 1.11 Definitions.** All capitalized words and phrases used in this Partnership Agreement (other than the full names and addresses of the Partners and governmental subdivisions and agencies) have the meanings set forth in **Appendix I.**

## **ARTICLE 2** **CAPITAL CONTRIBUTIONS**

### **Section 2.1 General Partner's Capital Contributions.**

(a) The General Partner will make a cash Capital Contribution to the Partnership in the amount of \$100 and, upon the execution of this Partnership Agreement, shall provide documentation that the Capital Contribution has been made. In no event shall the aggregate Capital Contributions of the General Partner exceed \$100 without the Consent of the Limited Partner.

(b) The General Partner has assigned and hereby assigns and has caused and shall cause its Affiliates to assign to the Partnership all of its respective rights, title and interest in, to, and under all agreements, licenses, approvals, permits, Tax Credit allocations and any other tangible or intangible personal property which is related to the Project Property or which is required to permit the Partnership to pursue its business and carry out its purposes as contemplated in this Partnership Agreement. The General Partner's Capital Account will not be credited with any amount as a result of its assignment to the Partnership of the various items referred to in the immediately preceding sentence.

(c) If any Developer Fee including any accrued but unpaid interest thereon (if any) remains (or is expected to remain) at the expiration of the Compliance Period, the General Partner shall make an additional Capital Contribution to the Partnership in the aggregate amount of the unpaid Developer Fee no later than 6 months prior to the expiration of the Compliance Period, and the General Partner shall cause the Partnership to immediately pay the entire unpaid amount of Developer Fee. If the General Partner does not make such additional Capital Contribution as required in the preceding sentence, such Capital Contribution will be deemed to have been paid by the General Partner and unpaid Developer Fee will be deemed to have been paid by the Partnership, and the Developer's sole recourse for nonpayment shall be against the General Partner.

**Section 2.2 Special Limited Partner's and Limited Partner's Capital Contributions.**

(a) The Special Limited Partner shall pay its entire Capital Contribution of \$100 to the Partnership in cash as of the date of admission.

(b) The Limited Partner shall contribute as its Capital Contribution the sum of \$11,471,790 payable in accordance with the schedule of payments set forth on Appendix VIII. The obligation of the Limited Partner to make the Capital Contributions is subject to satisfaction of the conditions precedent to each installment of its Capital Contribution as set forth in *Section 2.2(c)*, *Section 5.4(a)* and Appendix VIII. Each such installment of the Capital Contribution shall be made within ten (10) Business Days of the satisfaction of the last condition precedent thereto.

(c) All installments of Capital Contributions by the Limited Partner made through Construction Completion shall be funded on a monthly draw basis. The obligation of the Limited Partner to make any Capital Contribution pursuant to this *Section 2.2* shall be expressly conditioned upon each of the following requirements being satisfied at all times prior to and including the due dates of the aforesaid payments:

- (1) the General Partner shall have properly completed, executed and delivered to the Limited Partner a certificate relating to the appropriate installments in the forms attached in Appendix VIII;
- (2) the General Partner shall have fully complied with all of its covenants and obligations set forth in this Partnership Agreement (including without limitation, those covenants and obligations set forth in *Section 5.3* which shall be true and correct in all material respects);
- (3) no event shall have occurred which would permit the Limited Partner to give an Election Notice under *Section 5.10(e)*;
- (4) the Project must be In Balance; and
- (5) there has been no change in any law or regulation, which would adversely affect the ability of the Partnership to generate Tax Credits.

The Limited Partner hereby acknowledges and agrees that its Capital Contributions also will be assigned and pledged by the Partnership to the Funding Lender pursuant to that certain [Rider to Continuing Covenant Agreement – Pledge of Equity Investor Capital Contributions] attached to the Continuing Covenant Agreement dated as of [\_\_\_\_\_] [\_\_\_\_], 2021 and that certain Assignment of Equity Investor Capital Contributions, Pledge and Security Agreement dated as of [\_\_\_\_\_] [\_\_\_\_], 2021.

**Section 2.3 Interest on Capital Contributions.** The Partnership shall not pay any Partner interest on its Capital Contribution.

**Section 2.4 Withdrawal and Return of Capital Contributions.** No Partner has the right: (a) to withdraw any part of its Capital Contribution from the Partnership; (b) to

demand a return of its Capital Contribution; or (c) to receive property other than cash in return for its Capital Contribution.

## **Section 2.5      Capital Accounts.**

(a) The Partnership shall maintain for each Partner a separate capital account in accordance with Section 1.704-1(b) of the Regulations. The Capital Account of each Partner consists of the amount of its Capital Contribution, and will be (1) increased by (i) the fair market value of any property contributed by it to the Partnership, (ii) the amount of any Partnership liability assumed by such Partner or which is secured by any Partnership Property distributed to such Partner, and (iii) such Partner's allocable share of Profits, and (2) decreased by (i) the amount of any cash distributed to it, (ii) the fair market value of any Partnership Property distributed to it, (iii) the amount of any liability of such Partner assumed by the Partnership or which is secured by any property contributed by such Partner to the Partnership, and (iv) its allocable share of Losses. The Capital Account of each Partner will also be adjusted to the extent required by Section 1.704-1(b)(2)(iv)(j) of the Regulations.

(b) If any Partnership Interests are transferred in accordance with the terms of this Partnership Agreement, then the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Partnership Interests. Upon the occurrence of any of the following events, and if required to cause the provisions herein regarding the maintenance of Capital Accounts to comply with Section 1.704-1(b) of the Regulations, the Partnership Property shall be revalued and the Partners' Capital Accounts adjusted to reflect the gain (or loss) that would have been allocated to each Partner if all the Partnership Property had been sold at its fair market value immediately prior to the occurrence of such event:

(1) 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;

(2) The Partnership distributing to a Partner more than a de minimis amount of property or money in consideration for an interest in the Partnership; or

(3) The "liquidation" of the Partnership within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations.

The revaluation of the Partnership Property referred to in the immediately preceding sentence shall be made in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

The foregoing provisions and all other provisions of this Partnership Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations.

**Section 2.6      Partnership Loans.** Subject to the limitations set forth in *Section 5.2(f)* and *Section 5.4(g)*, if from time to time funds are needed by the Partnership in excess of those provided by the Project Loans, Capital Contributions of the Partners, and funds required to be provided by the General Partner or any of its Affiliates pursuant to any obligation hereunder or any other agreement (such as pursuant to *Sections 5.4(i)* and *(l)*), any Partner or other Person may loan such additional funds to the Partnership at an interest cost to the Partnership and upon such other terms,

as agreed upon by the General Partner and the Special Limited Partner in their reasonable discretion, subject to compliance with the terms of existing loan agreements and this Partnership Agreement. Any loans made by the General Partner or its Affiliates will not bear interest in excess of one percent (1%) per annum over the Prime Rate. Any Partner making any loan to the Partnership will be considered, with respect to the monies advanced, a general creditor of the Partnership and not a Partner. Any loan made hereunder by a Partner will be paid as provided in *Section 4.1* and *Section 4.2* hereof.

**Section 2.7 Additional Capital Contributions.** Except as expressly provided in this Partnership Agreement, no Partner is obligated to make contributions to the capital of the Partnership.

**ARTICLE 3**  
**ALLOCATION OF PROFITS, LOSSES AND TAX CREDITS**

**Section 3.1 Profit and Loss Allocations.** All Profits and Losses for any Fiscal Year of the Partnership, except those items in *Section 3.2* below, shall be allocated to the Partners in accordance with the following percentages. Every item of income, gain, loss, deduction, or tax preference entering into the computation of such Profits and Losses, or applicable to the period during which such Profits and Losses were realized, shall be considered allocated to each Partner in the same proportion as Profits and Losses are allocated to such Partner.

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

Allocations to the Limited Partner and the Special Limited Partner herein shall be made in accordance with the percentages set forth in this *Section 3.1* unless specifically stated otherwise.

**Section 3.2 Special Allocations.** Notwithstanding anything to the contrary contained in *Section 3.1*, the following special allocations shall in all events apply in determining the allocation of Profits and Losses among the Partners and shall be made prior to the allocations required under *Section 3.1*.

(a) **Depreciation and Tax Credits.**

(1) Depreciation (cost recovery) deductions and Tax Credits shall be allocated among the Partners in accordance with the following percentages:

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

(2) Any recapture of Tax Credits shall be allocated to the Partners who were allocated (or whose predecessors-in-interest were allocated) the depreciation/cost recovery deduction and Tax Credits associated therewith.

(b) **Limitation on Allocations of Losses.**

(1) To the extent the allocation of any Losses to a Partner would cause that Partner to have an Adjusted Capital Account Deficit at the end of any Fiscal Year of the Partnership, then those Losses will not be allocated to that Partner, but rather will be specially allocated to the remaining Partners in proportion with their relative interests in the Partnership.

(2) In the event some but not all of the Partners would have Adjusted Capital Account Deficits due to an allocation of Losses, the limitation set forth in this *Section 3.2(b)* shall be applied on a Partner by Partner basis so as to allocate the maximum permissible Losses to each Partner who is not a General Partner under Treas. Reg. Section 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitation set forth in this *Section 3.2(b)* shall be allocated to the General Partner.

(c) **Profit Chargeback.** To the extent any Losses are specially allocated to a Partner in accordance with *Section 3.2(b)*, then Profits will thereafter first be specially allocated to such Partner in proportion to and in an amount (1) up to but not exceeding the amount of any such special allocation of Losses away from such Partner under such subparagraph (b) but (2) not to the extent that Losses or depreciation deductions would be allocated to the remaining Partners in excess of the amount permitted by *Section 3.2(b)*.

(d) **Partnership Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the Partnership's Minimum Gain attributable to Nonrecourse Liabilities during any taxable year, each Partner shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such year (and, if necessary for subsequent years) in proportion to, and to the extent of, an amount equal to such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(g)(2). In the event that such net decrease in the Partnership's Minimum Gain occurs in connection with the disposition of all or any portion of the Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of such disposition. It is the intent that the allocations provided in this *Section 3.2(d)* shall be determined in accordance with and only to the extent required by Treas. Reg. Section 1.704-2(f) and (j)(2)(i).

(e) **Partner Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the amount of the Partnership's Minimum Gain during any taxable year with respect to a Partner Nonrecourse Debt, the Partner bearing the Economic Risk of Loss with respect to such Partner Nonrecourse Debt shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such taxable year (and, if necessary, for subsequent years) in proportion to, and to the extent of the amount of such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(i)(4). In the event that such net decrease in the Partner's Minimum Gain occurs in connection with the disposition of all or any portion of Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of



such disposition. It is the intent that the allocations provided in this *Section 3.2(e)* shall be determined in accordance with and only to the extent required by the provisions of Treas. Reg. Section 1.704-2(i) and (j)(2)(ii).

(f) **Qualified Income Offset.** If a Partner unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, then items of Partnership income or gain will be specially allocated to that Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of that Partner as quickly as possible. The special allocations required pursuant to this subparagraph (f) are made only if and to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made as if this subparagraph (f) were not in this Partnership Agreement. This subparagraph (f) is intended to comply with the qualified income offset requirements of Section 1.704-1(b)(2)(ii)(d) of the Regulations and will be interpreted consistently therewith.

(g) **Gross Income Allocation.** In the event any Partner has a deficit Capital Account at the end of any Fiscal Year in excess of the sum of (i) the amount that such Partner must restore pursuant to any provision of this Partnership Agreement, if any, and (ii) the amount such Partner is deemed obligated to restore pursuant to the penultimate sentence of Treas. Reg. Section 1.704-2(g) and Section 1.704-2(i)(5), such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this *Section 3.2(g)* shall be made if and only to the extent that such Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 3 have been tentatively made as if these *Sections 3.2(f)* and *3.2(g)* hereof were not in this Partnership Agreement.

(h) **Nonrecourse Deductions.** Nonrecourse Deductions shall be specially allocated among the Partners in accordance with the same percentages set forth in *Section 3.1* with respect to Profits and Losses.

(i) **Partner Nonrecourse Deductions.** Partner Nonrecourse Deductions shall be specially allocated to the Partner who bears the Economic Risk of Loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i) of the Regulations.

(j) **Section 754 Adjustment.** To the extent an adjustment to the adjusted tax basis of any Partnership Property undertaken pursuant to Section 734(b) or 743(b) of the Code is required to be taken into account in determining the Capital Accounts of the Partners under Treas. Reg. Section 1.704-1(b)(2)(iv)(m), then the amount of such adjustment to the Capital Accounts will 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 will be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to the aforementioned section of the regulations.

(k) **Imputed Interest.** To the extent the Partnership has taxable interest income with respect to any Capital Contribution pursuant to Section 483 or Sections 1271 through 1288 of the

Code, then (i) such interest income shall be specially allocated to the Partner to whom such Capital Contribution relates, and (ii) the amount of such interest income shall be excluded from the Capital Contributions credited to such Partner's Capital Account in connection with the payments of principal with respect to such Capital Contribution.

(l) **Curative Allocations.** In the event that income, loss or items thereof are allocated to one or more Partners pursuant to *Sections 3.2(f)* and *(g)*, subsequent income, loss or items thereof shall be allocated (subject to the provisions of *Sections 3.2(f)* and *(g)*) to the Partners so that, to the extent possible in the judgment of the General Partner, the net amount of allocations shall be equal to the amount that would have been allocated had *Section 3.2* not been applied. Notwithstanding the foregoing, the allocation of depreciation deductions will be governed by *Section 3.2(a)* and this *Section 3.2(l)* shall not apply to allocations of depreciation deductions.

(m) **Allocation of Income or Gain from Sales.** All items of Partnership income or gain arising from events resulting in Net Cash from Sales or Refinancings shall be allocated:

*First*, as specified in *Sections 3.2(c)* through *(g)*, *(j)* and *(l)* and *Section 3.4(c)*;

*Second*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose, the Limited Partner has a negative Capital Account balance, 100% to the Limited Partner until the Limited Partner's negative Capital Account is reduced to zero;

*Third*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose the General Partner has a negative Capital Account balance, 100% to the General Partner until such negative Capital Account balance is reduced to zero;

*Fourth*, to each Partner until such Partner's positive Capital Account balances equal any amount to be distributed to such Partner pursuant to *Section 4.2(a)*;

*Fifth*, to the Partners in accordance with the percentages specified in *Section 4.2(b)*.

(n) **Special Adjustment.** Notwithstanding any provision of this Partnership Agreement to the contrary and prior to making, with respect to a Fiscal Year, any special allocations set forth in this *Section 3.2*, (1) items of expenses and other deductions (other than depreciation, amortization, cost recovery deductions, and Nonrecourse Deductions) incurred in such Fiscal Year for any Fiscal Year, equal to the amount of any loan advances to the Partnership made or required to be made in such Fiscal Year by the General Partner or any of its Affiliates pursuant to this Partnership Agreement shall be specially allocated to the General Partner making the loan; and (2) any "cancellation of debt income" (defined in Section 1.61-12 of the Regulations) arising before the Limited Partner's admission to the Partnership shall be specially allocated to the General Partner.

(o) **Limited Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the Limited Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner.

(p) **General Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the General Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner; provided, however, that such right will only be exercisable if the Limited Partner's Capital Account is negative or projected to be negative in that year and such negative capital account would result in exit tax liability to the General Partner in excess of \$[TBD] (as determined by the Special Limited Partner).

**Section 3.3 Timing of Allocations.** Except as otherwise expressly provided herein, or under the Code, all allocations of Profits, Losses and Tax Credits shall be made as of the last day of each Fiscal Year of the Partnership.

**Section 3.4 Other Allocation Rules.** The following rules shall apply for the purpose of interpreting and applying the provisions of this Article 3 relating to the allocation of Profits, Losses and Tax Credits among the Partners:

(a) **Excess Nonrecourse Liabilities.** Solely for purposes of determining a Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Section 1.752-3(a)(3) of the Regulations, the Partners' respective interests in Partnership Profits shall be those percentage interests set forth in *Section 3.1* (determined without regard to *Section 3.2*).

(b) **Effect of Cash Distributions.** To the extent permitted by Section 1.704-2(h) and Section 1.704-2(i)(6) of the Regulations, the General Partner shall endeavor to treat distributions of Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for the Limited Partner, as of the end of the Fiscal Year in which a distribution occurs.

(c) **Recharacterization of Fee as Distribution.** If any fee or portion thereof which would be considered an ordinary and necessary expense of the Partnership payable to any Partner or any Affiliate thereof is determined to be a nondeductible distribution from the Partnership to a Partner for federal income tax purposes, there shall be allocated to such Partner an amount of gross income equal to such distribution.

(d) **Deductions Attributable to Operating Deficit Loans.** In the event that the General Partner makes any Operating Deficit Loans pursuant to *Section 5.4(i)*, any deductions or losses of the Partnership attributable to the use of those funds shall be specially allocated to the General Partner.

(e) **Income Attributable to General Partner Capital Contributions.** Any income attributable to the Capital Contribution of the General Partner shall be allocated to the General Partner.

**Section 3.5 Tax Effect of Allocations.** Except as otherwise required under the second paragraph of this *Section 3.5*, the allocation of Profits, Losses and Tax Credits to any Partner under this Article 3 shall be deemed an allocation to that Partner of the same proportionate part of each separate item of Partnership taxable income, gain, loss, deduction or credit which comprise such Profits, Losses and Tax Credits, including, without limitation, any “unrealized receivable” or “substantially appreciated inventory item” under Section 751 of the Code. The Partners are aware of the income tax consequences of the allocations made pursuant to this Article 3 and hereby agree to be bound by the provisions of this Article 3 in reporting their respective shares of Partnership income, gain, loss, deduction and credit for income tax purposes.

Notwithstanding anything to the contrary contained in this Article 3, income, gain, loss, deduction and credit with respect to any Partnership Property contributed to the capital of the Partnership by any Partner shall, solely for tax purposes, be allocated among the Partners so as to take into account any variation between the adjusted tax basis of such Partnership Property to the Partnership for federal income tax purposes and the value assigned to such Partnership Property for the purposes of the computation of the Partners’ Capital Accounts. If any revaluation of the Partnership Property is made by the General Partner (which revaluation may only be made with the Consent of the Special Limited Partner) then any subsequent allocations of income, gain, loss, deduction and credit with respect to such Partnership Property shall take into account any variation between the adjusted tax basis of such Partnership Property for federal income tax purposes and the value assigned to such Partnership Property as a result of such revaluation. All allocations required under this paragraph of *Section 3.5* are solely for purposes of federal, state and local income taxes and shall not affect or in any way be taken into account in computing any Partner’s Capital Account or any Partner’s share of Profits, Losses, Tax Credits or other items or distributions required or permitted to be made pursuant to any provision of this Partnership Agreement.

**Section 3.6 Miscellaneous Allocations.**

(a) Except in the case of any Net Cash from Sales and Refinancings pursuant to *Section 4.2*, if any Partnership expenditure treated as a deduction on its federal income tax return is disallowed as a deduction and treated as a distribution pursuant to Section 731(a) of the Code, there shall be a special allocation of gross income to the General Partner deemed to have received such distribution equal to the amount of such distribution.

(b) From and after the achievement of Stabilized Operations, if the General Partner receives a distribution of Cash Flow pursuant to *Section 4.1(a)*, then there shall be allocated to the General Partner an amount of income equal to the amount of such distribution.

**ARTICLE 4**  
**DISTRIBUTIONS**

**Section 4.1 Distribution of Cash Flow.**

(a) Subject to any Requisite Approvals, after payment of the Asset Management Fee and the Incentive Leasing Fee, all net rental income prior to the achievement of Stabilized Operations shall be available to the Developer and the General Partner to pay Development Costs; thereafter, subject to any Requisite Approvals, Cash Flow shall be distributed in the following order and priority:

(1) *First*, to pay the Asset Manager its Asset Management Fee including any accrued but unpaid Asset Management Fee;

(2) *Second*, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(3) *Third*, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive from Cash Flow as payment to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) *Fourth*, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon, and then as a return of capital to the General Partner to the extent of any Capital Contribution by the General Partner related to payment of the Deferred Development Fee Note, until the aggregate amount distributed pursuant to this *Section 4.1(a)(4)* equals the amount of such General Partner Capital Contribution;

(5) *Fifth*, to the Operating Reserve Account until such time as such account is equal to the Operating Reserve Amount and then to the Replacement Reserve to fund required amounts from prior years not previously funded;

(6) *Sixth*, to pay the General Partner its Partnership Management Fee including any accrued but unpaid Partnership Management Fee;

(7) *Seventh*, to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*;

(8) *Eighth*, 10% to the Limited Partner; and

(9) *Ninth*, the balance to the General Partner, first as payment of an Incentive Management Fee (but not in excess of 12% of the gross revenues of the Partnership less any fees payable to the General Partner or its Affiliates) and thereafter as a distribution.

**Section 4.2 Net Cash from Sales and Refinancings.** Except as otherwise provided in Article 10 hereof (pertaining to the liquidation and dissolution of the Partnership), Net Cash from

Sales and Refinancings (with the exception of any proceeds owed to the Limited Partner and the Special Limited Partner from a contemporaneous refinancing of the Project that occurs in connection with *Sections 8.5 and 8.6* herein) shall be paid or distributed to the Partners as provided in this *Section 4.2*.

(a) Prior to winding up and dissolution, Net Cash from Sales and Refinancings shall, prior to making any distributions pursuant to *Section 4.2(b)* hereof, be paid out in the following order and priority:

(1) *First*, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(2) *Second*, to discharge, to the extent required by any lender or creditor, the debts and obligations of the Partnership (including any outstanding loan made pursuant to *Section 2.6* hereof);

(3) *Third*, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or the Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) *Fourth*, to the Limited Partner in the amount of the Exit Taxes, provided that no Exit Taxes shall be paid to the Limited Partner for a disposition pursuant to *Section 8.5* or *Section 8.6* hereof;

(5) *Fifth*, to the payment of any accrued but unpaid Asset Management Fee;

(6) *Sixth*, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon;

(7) *Seventh*, to fund reserves for contingent liabilities to the extent deemed reasonable by the Limited Partner (other than items listed below in this *Section 4.2(a)*);

(8) *Eighth*, to the General Partner to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*;

(9) *Ninth*, to the General Partner first to pay the Partnership Management Fee and then to pay the Disposition Fee; and

(b) After making the payments specified in *Section 4.2(a)*, the balance of Net Cash from Sales and Refinancings, if any, shall be distributed among the Partners in accordance with the following percentages:

General Partner	89.999%
Special Limited Partner	0.001%
Limited Partner	10.00%

Total

100.00%

**Section 4.3 Timing of Distributions.** Distributions of Cash Flow shall be made annually within 90 days after the end of each Fiscal Year of the Partnership, but in no event prior to the Special Limited Partner's receipt and reasonable approval of the calculation of Cash Flow and draft annual Partnership financial statements. The determination of the amount of Cash Flow distributable annually to the Partners under this Article 4 shall be made based upon the state of facts existing on the last day of each Fiscal Year of the Partnership. Provided that no default has occurred and is continuing and to the extent permitted by the Project Lenders, the General Partner may elect to distribute Cash Flow at the end of the second quarter of any Fiscal Year (each, a "Semi-Annual Cash Flow Distribution") subject to the following conditions. No Semi-Annual Cash Flow Distribution may exceed the lesser of (a) 75% of the Cash Flow then available, or (b) 50% of the Cash Flow projected to be available for such Fiscal Year based on a current cash flow projection schedule prepared by the General Partner (which schedule shall take into account the actual operations of the Project and shall otherwise be reasonably acceptable to the Limited Partner). By electing to make any such Semi-Annual Cash Flow Distribution, the General Partner acknowledges and agrees that it must make an Operating Deficit Loan to the Partnership in the event that an Operating Deficit arises following such Semi-Annual Cash Distribution and, but for such Semi-Annual Cash Distribution, the Partnership would have had sufficient Cash Receipts to pay its Operating Expenses in full. Any Operating Deficit Loan made by the General Partner in respect of the obligation described in the preceding sentence shall not reduce or otherwise diminish the maximum amount of the Operating Deficit Loans required under *Section 5.4(i)*. In the event that the Semi-Annual Cash Flow Distribution made at the end of the second quarter of any Fiscal Year exceeds the actual amount of Cash Flow generated in such Fiscal Year as reflected in the Partnership's audited financial statements (each, an "Excess Cash Flow Distributions"), the General Partner shall promptly reimburse the Partnership for any Excess Cash Flow Distributions that the General Partner or any Affiliate of the General Partner received (and each subsequent distribution of Cash Flow to a Person other than the General Partner or its Affiliates shall be reduced as and to the extent necessary to eliminate the Excess Cash Flow Distributions payable to such Person(s) as quickly as possible).

## **ARTICLE 5** **POWERS, RIGHTS AND DUTIES OF GENERAL PARTNER**

### **Section 5.1 Management of Partnership.**

The Partnership shall be managed by the General Partner, who shall exercise full and exclusive control over the affairs of the Partnership, subject, however, to the limitations on its authority set forth in this Partnership Agreement (including, without limitation, *Sections 5.2* and *5.3*). The General Partner shall conduct and manage the affairs of the Partnership in a prudent, businesslike, and lawful manner and shall devote such part of its time to the affairs of the Partnership as shall be deemed necessary and appropriate to pursue the business and carry out the purposes of the Partnership as contemplated in this Partnership Agreement. The General Partner shall use its best efforts and exercise good faith in all activities related to the business of the Partnership.

**Section 5.2**      **Restrictions on the General Partner's Authority.** Notwithstanding anything to the contrary contained in this Partnership Agreement, the General Partner shall not have the authority to take any of those actions specifically set forth below, unless the Consent of the Special Limited Partner is obtained:

(a) Do any act that is in contravention of or inconsistent with this Partnership Agreement or any other agreement to which the Partnership is a party (including, without limitation, those relating to the Project Loans);

(b) Do any act which would make it impossible to carry on the ordinary business of the Partnership;

(c) Confess a judgment against the Partnership;

(d) To cause the Partnership to possess Partnership Property or assign rights in specific Partnership Property for other than a Partnership purpose;

(e) Except as provided herein, sell or otherwise transfer any interest in the Project Property (other than leases of residential units and the sale or disposition of personal property replaced with property of similar character and purpose in the ordinary course of the Partnership's business);

(f) Incur any liability on behalf of the Partnership in the ordinary course of the Partnership's business in excess of \$100,000 in the aggregate (or enter into any agreement resulting in any such liability being incurred), other than the Project Loans or loans required or permitted under *Section 5.4(i)* and *Section 5.4(l)* hereof, and those liabilities (or agreements relating thereto) which have theretofore been disclosed to and approved in writing by the Special Limited Partner;

(g) Except as disclosed in the Financial Forecasts, to cause the Partnership to acquire any interest in real property or acquire any item of personal property having a purchase price of more than \$100,000 in the aggregate;

(h) Refinance, prepay or modify any mortgage or long-term liability of the Partnership, including, without limitation, the Tax Exempt Loan; *provided, however*, after the end of the Compliance Period, the General Partner may refinance the Tax Exempt Loan without the Consent of the Special Limited Partner if the General Partner demonstrates to the reasonable satisfaction of the Limited Partner that (i) following the refinance, the Project will maintain a Debt Coverage Ratio of at least 1.15:1.00 based upon net operating income from the audited financial statements for the most recent Fiscal Year and the maximum mandatory debt service under the Project Loans on a pro forma basis, (ii) the maker of the new loan (the "New Loan") has determined that the New Loan will have a loan-to-value ratio of not more than 90%, (iii) the New Loan will have a term that does not exceed 40 years, (iv) the New Loan will have a fixed rate of interest (or an interest rate cap or swap agreement is purchased on terms acceptable to the Limited Partner), (v) amortization of principal and interest on the New Loan will be based on a schedule of not less than 20 or more than 40 years commencing after the end of the Compliance Period, (vi) the New Loan will be made by a bank, insurance company or other institutional lender which is not the General Partner or an Affiliate, (vii) the New Loan will not contain any "equity participation" features and will otherwise be on commercially reasonable terms, (viii) all other expenses associated with such



refinancing will be paid from the proceeds of the refinancing, and (ix) unless the Partners mutually agree to a different application, any refinancing proceeds shall be applied in accordance with *Section 4.2* of the Partnership Agreement.

(i) Compromise any claim or liability in excess of \$100,000 owed by or to the Partnership;

(j) Make, amend or revoke any tax election, reservation, allocation or certification required of or permitted to be made by the Partnership under the Code or the Regulations, or the State Housing Finance Agency, including, without limitation, any election under Section 42 or Section 754 of the Code. In this regard, the General Partner shall make (and the Special Limited Partner Consents thereto) any elections required or any reasonable elections permitted under Section 42 of the Code requested in writing by the Special Limited Partner;

(k) Change any accounting method or practice of the Partnership;

(l) Take any action which would cause the termination of the Partnership for federal income tax purposes, the treatment of the Partnership as other than a partnership for federal income tax purposes, or the dissolution of the Partnership for state law purposes except as permitted in *Section 10.1*;

(m) Construct any improvements on the Project Property other than those contemplated in the Plans and Specifications (or any modification thereof unless such modification is expressly approved in writing by the Special Limited Partner or conforms to the requirements of *Section 5.3(o)*);

(n) Use or cause the Project Property to be used for any purpose other than as a low income housing development eligible for Tax Credits as contemplated under Section 42 of the Code;

(o) Except for the Project Loans, mortgage, pledge or encumber any interest in any Partnership Property, including, without limitation, the Project Property;

(p) Loan any money on behalf of the Partnership or guarantee on behalf of the Partnership the indebtedness of any other Person;

(q) Change the nature of the business or purpose of the Partnership;

(r) Hire or retain any Person to manage the Project Property or the Partnership's business;

(s) Admit any other Person as a Partner;

(t) Perform any act subjecting the Limited Partner or the Special Limited Partner to liability as a general partner in any jurisdiction;

(u) Deposit any Partnership funds in any bank, savings and loan or other financial institution whose accounts are not insured by the Federal Deposit Insurance Corporation; *provided*,

*however*, for avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amount on deposit in any particular account are in excess of the Federal Deposit Insurance Corporation insurance limits;

(v) Commingle any Partnership funds with the funds of (i) any other partnership or limited liability company in which the General Partner is a partner or member, as the case may be or (ii) the General Partner;

(w) To cause the Partnership to execute or deliver any assignment for the benefit of creditors;

(x) File a lawsuit on behalf of the Partnership (other than lease enforcement, collection, other routine legal actions in the ordinary course of business of the Partnership or a lawsuit against the Limited Partner);

(y) To cause the Partnership to hire any employees for any purpose; or

(z) To cause the Partnership to modify or amend any material term of the Management Agreement, Development Agreement or Construction Contract, or waive any rights of the Partnership thereunder.

### **Section 5.3 Representations, Warranties and Covenants of the General Partner**

As an inducement to the Limited Partner and the Special Limited Partner to enter into this Partnership Agreement and in addition to the representations, warranties and covenants set forth elsewhere in this Partnership Agreement, the General Partner hereby represents and warrants to the Limited Partner and the Special Limited Partner that the statements below are true as of closing, will be true on the due date for payment of each Installment and, except as otherwise stated below, at all times hereafter. The General Partner shall fully comply with and abide by all of the covenants set forth herein at all times throughout the term of the Partnership's existence.

(a) **Current Partnership Agreement**. The General Partner has previously provided a true, complete and current copy of the Partnership's Original Agreement, together with all amendments thereto, to the Special Limited Partner or its designees, which Original Agreement and amendments reflect all agreements among the Partners of the Partnership prior to its amendment hereby.

(b) **Due Authorizations, Execution and Delivery; Binding Effect**. The execution and delivery of this Partnership Agreement by the General Partner and the performance by the General Partner of the transactions contemplated hereby have been duly authorized by all requisite corporate, partnership or trust actions or proceedings and the consummation of any such transactions with or on behalf of the Partnership will not constitute a breach or violation of, or a default under, the organizational documents of the General Partner or any agreement by which the General Partner or any of its properties is bound, nor constitutes a violation of any law, administrative regulation or court decree. The General Partner is duly organized, validly existing and in good standing under the laws of the state of its formation with power to enter into this Partnership Agreement and to consummate the transactions contemplated hereby. This Partnership Agreement is binding upon and enforceable against the General Partner in accordance with its terms except to the extent that such enforceability may be limited by laws regarding bankruptcy,

creditors' rights and general principles of equity. The General Partner, on behalf of the Partnership, is authorized to execute any and all loan agreements, notes, mortgages and security agreements in order to secure loans from any Project Lender and any and all other documents, including but not limited to the Project Documents, required by any Project Lender or any Governmental Agency in connection with each mortgage.

(c) **Valid Partnership; Power of Authority.** The Partnership is and will continue to be a valid limited partnership, duly organized under the laws of the State of Formation, and shall have and shall continue to have full power and authority to acquire the Land and to develop, rehabilitate, operate and maintain the Project Property in accordance with the terms of this Partnership Agreement, and shall have taken and shall continue to take all action under the laws of the State of Formation and any other applicable jurisdiction that is necessary to protect the limited liability of the Limited Partner and the Special Limited Partner and to enable the Partnership to engage in its business.

(d) **Required Consents.** The Partnership has obtained all consents required for the admission of the Limited Partner and the Special Limited Partner to the Partnership, including but not limited to, the consent of the holder(s) of the Project Loans, if necessary, and any required consents of applicable Authorities. No consent is required for the transfer of the Limited Partner's Partnership Interest to a Fund. Notwithstanding the immediately preceding sentence, each of the Limited Partner and the Special Limited Partner agrees that it shall not transfer its Partnership Interest, or any portion of its Partnership Interest, to any of Wentwood Companies, Kay Realty, Hunt Companies, Alden Torch Financial, Affordable Housing Partners, Inc., Affordable Equity Partners, Inc., or Oceanside Capital Advisors (each a "**Prohibited Party**"), or, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Prohibited Party, to an affiliate of a Prohibited Party.

(e) **Ownership of General Partner.** Developer owns and shall continue to own at all times during the term of the Partnership all classes of interests of the General Partner. Vitus Group, LLC and Scott O. Langan ("**Langan**") own and shall continue to own at all times during the term of the Partnership all classes of interests in the Developer. Stephen R. Whyte ("**Whyte**") owns and shall continue to own at all times during the term of the Partnership all classes of interests in Vitus Group, LLC. Notwithstanding the foregoing, it shall not be a violation of the requirements of this Partnership Agreement if (i) Langan transfers all or a portion of his non-managing membership interest in the Developer to one or more trusts for the benefit of Langan, Langan's spouse, descendants or ancestors as part of his estate planning and/or (ii) Whyte transfers all or a portion of his managing membership interest in the Developer to one or more trusts for the benefit of Whyte, Whyte's spouse, descendants or ancestors as part of his estate planning, as long as within 90 days of such event a proposal is made to the Special Limited Partner setting forth the proposed new ownership of the Developer or its successor, and such proposal is acceptable to the Special Limited Partner in its sole but reasonable discretion.

(f) **No Violation.** The execution and delivery of the Project Documents, the incurrence of the obligations set forth in any of the Project Documents, and the consummation of the transactions contemplated by any of the Project Documents do not violate any provision of law, any order, judgment or decree of any court binding on the Partnership, the General Partner or any Affiliate(s) thereof, any provision of any indenture, agreement, or other instrument to which the

Partnership or the General Partner is a party or by which the Partnership, the General Partner or the Project Property is affected, and are not in conflict with, and will not result in a breach of or constitute a default under any such indenture, agreement, or other instrument or result in creating or imposing any lien, charge, or encumbrance of any nature whatsoever upon the Project Property.

(g) **Compliance with Agreements.** To the best of its knowledge after due inquiry, at the time of the execution of this Partnership Agreement, the General Partner, unless otherwise consented to by the Limited Partner after written notice from the General Partner, either individually or on behalf of the Partnership, has fully complied with all applicable provisions and requirements of any and all contracts, options and other agreements with respect to the purchase of the Land and the buildings and other improvements located on the Land, and the development, financing and operation of the Project Property; it shall take, and/or cause the Partnership to take, all actions as shall be necessary to achieve and maintain continued compliance with the provisions, and fulfill all applicable requirements, of such agreements.

(h) **No Defaults.** The General Partner is not aware of (i) any default or any circumstances which, with the giving of notice or the passage of time, would constitute a default, under any agreement, contract, lease, Project Loan, or other commitment (unless otherwise consented to by the Limited Partner after written notice from the General Partner), or (ii) of any claim, demand, litigation, proceedings or governmental investigation pending or threatened against the General Partner, the Project Property or the Partnership, or related to the business or assets of the General Partner, the Project Property or the Partnership, which claim, demand, litigation, proceeding or governmental investigation could result in any judgment, order, decree, or settlement which would materially adversely affect the business or assets of the General Partner, the Project Property or the Partnership.

(i) **Taxation and Limited Liability.** No event has occurred that has caused and the General Partner will not act in any manner that will cause (i) the Partnership to be treated for federal income tax purposes as an “association” taxable as a corporation, rather than as a partnership, or (ii) the Limited Partner to be liable for Partnership obligations in excess of its Capital Contributions, plus the limited dollar amount of any deficit restoration obligation agreed to by the Limited Partner pursuant to *Section 10.4*, plus any amount required to be repaid by the Limited Partner to the Partnership pursuant to *Section 6.1* hereof and the Act.

(j) **No Undisclosed Financial Responsibilities.** Neither the Partnership nor the General Partner, either individually or on behalf of the Partnership, has incurred any financial responsibility with respect to the Project Property prior to the date of execution of this Partnership Agreement, other than (i) that disclosed to the Special Limited Partner in writing prior to the date of this Partnership Agreement, or (ii) obligations which will be fully satisfied at or prior to the closing. As of the date hereof and hereafter continuously, unless the Special Limited Partner otherwise provides prior written consent or unless otherwise specifically provided for herein, the only indebtedness of the Partnership with respect to the Project Property is the Project Loans and, if any, Development Deficit Loans, Operating Deficit Loans and Loans permitted under *Section 2.6*. Without limiting the generality of the foregoing, neither the General Partner, any of its Affiliates, nor the Partnership, has entered, or shall enter, into any agreement or contract for any loans (other than the Project Loans) or for the payment of any Project Loan discounts, additional interest, yield maintenance or other interest charges or financing fees, or any agreement providing

for the guarantee of payment of any such interest charges or financing fees relating to any Project Loan. The financial statements and other financial data delivered to the Limited Partner in connection with the Project Property and the General Partner, Developer and Guarantor are true, complete and accurate in all material respects. No adverse change has occurred in any such entity's financial position since the date of the financial statements and financial data last delivered to the Limited Partner.

(k) **Nonrecourse; No Personal Liabilities for Loans.** Neither the Partnership nor any Partner has or will have direct or indirect personal liability as maker, guarantor, partner or otherwise with respect to the payment of principal or interest or any other sum due under the Project Loans, except during the construction period and except for those certain exceptions to nonrecourse liability set forth in the Tax Exempt Loan Documents.

(l) **Partner or Affiliate Loans.** With the exception of Development Deficit Loans, loans made pursuant to *Section 2.6* and Operating Deficit Loans, neither the Partners nor any Affiliate of a Partner will be a lender to the Partnership unless, based upon the advice of tax counsel or adviser satisfactory to the Special Limited Partner, such loan will not likely adversely affect or cause a material re-allocation among the Partners of Tax Credits or Profits and Losses.

(m) **Aggregate Net Worth of Guarantor.** The Guarantor has and will at all times during the Compliance Period maintain an aggregate net worth (exclusive of their investment in the Partnership), computed on a market value basis, equal to \$5,000,000 (\$1,000,000 of which is held in liquid accounts).

(n) **Construction Contract.** The Construction Contract has been entered into between the Partnership and the General Contractor; no other consideration or fee shall be paid to the General Contractor in its capacity as the General Contractor for the Project Property other than the amounts set forth in the Construction Contract or as evidenced by change orders disclosed in writing to and Consented (unless consent is not required pursuant to (o) below) to by the Special Limited Partner (and approved by the Project Lenders as necessary); and all change orders to date have been paid in full. In addition, no consideration or fee shall be paid to the Developer or the General Partner by the General Contractor.

(o) **Construction Plans and Specifications.** The General Partner has sent (or as soon as available will send) to the Special Limited Partner or its designees the Plans and Specifications, if any, and all construction schedules, approved construction draws, certifications concerning occupancy, lien notices, project inspection reports, proposed changes and modifications to the Plans and Specifications, all documents pertaining to the Project Loans, and any other information which is relevant to the construction and development of the Project Property. No material change will be made in the Plans and Specifications for the Project without the Consent of the Special Limited Partner; provided, that changes in the Plans and Specifications, the Construction Contract (including change orders thereunder), or any other material contract relating to the development or financing of the Project which (1) do not affect the value or the use of the Project, or (2) do not result in an increase or decrease of more than 10% of the contingency in any one instance and 50% of the contingency in the aggregate between budget line items over the entire construction period, may be made without the Consent of the Special Limited Partner, but the General Partner shall provide the Special Limited Partner with notice thereof prior to making such change. Thereafter,

any use of the hard cost contingency (either within the Construction Contract or held as an owner's contingency) requires the Consent of the Special Limited Partner.

(p) **Rehabilitation of Project Property.** The rehabilitation and development of the Project Property shall be undertaken and shall be completed in a timely and workmanlike manner, free from liens (not otherwise bonded over in a cumulative amount not to exceed \$100,000) and defects, in accordance with (i) all applicable requirements of the project loans and the Project Documents, (ii) all applicable requirements of all appropriate governmental entities, and (iii) the Plans and Specifications of the Project Property that have been or shall be hereafter approved by the Special Limited Partner and, if required, the Project Lenders and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the Consent of the Special Limited Partner as required pursuant to this Partnership Agreement and the Project Lenders, if required, and any applicable Authorities, if such approval shall be required; it shall promptly provide copies of all change orders to the Special Limited Partner.

(q) **No Defective Soils Conditions.** To the best of the General Partner's knowledge after due inquiry, there are no defects or conditions of the soil that would have an adverse effect upon the use, occupancy and operation of the Project Property. The soil condition of the Land is such that it will support all of the improvements to be located thereon for its foreseeable life, without the need for unusual or new subsurface excavations, fill, footings, caissons or other installations. The improvements on the Land, as built, will be or are constructed in a manner compatible with the soil condition at the time of construction and all necessary excavations, fills, footings, caissons and other installations were then, have since been and will be provided.

(r) **Public Utilities.** All appropriate roadway and public utilities, including, without limitation, sanitary and storm sewers, water, telephone and electricity, are available to the Project Property, and all easements required in connection therewith have been obtained and filed of public record and the General Partner will use commercially reasonable efforts to keep all such utilities operating in a manner sufficient to service the Project Property and the residential units contained therein.

(s) **No Defects, Compliance.** Upon completion of the Project Property, there will be no physical or mechanical defects or deficiencies in the condition of the Project Property, including, but not limited to, the roofs, exterior walls or structural components of the Project Property and the heating, air conditioning, plumbing, ventilating, elevator, utility, sprinkler and other mechanical and electrical systems, apparatuses and appliances located in, or about, the Land which would materially and adversely affect the Project Property or any portion thereof. The Project Property is free from infestation by termites or other pests, insects, animals or other vermin and the General Partner will keep and maintain the Project Property in such condition. The Project Property conforms (or will timely conform) to all governmental regulations, including, without limitation, all zoning, building, health, fire and environmental rules, regulations ordinances or requirements or environmental laws, regulations or procedures applicable to the Project Property where the failure to conform would result in a material adverse effect. If at any time the Project benefits from or is otherwise subject to a HUD program, the General Partner shall not cause or permit to occur any circumstances that would (i) give rise to a "flag" affecting the Limited Partner or its Affiliates under HUD's previous participation certification system, the effect of which would be to adversely impact the ability of the Limited Partner or its Affiliates from participation in HUD

loan or subsidy programs; or (ii) result in a determination by HUD that the Project Property has failed to comply with HUD's minimum standards for physical condition (which under current REAC practice, would mean a score of below 31). Furthermore, the General Partner shall not cause or permit to occur any circumstance that would cause the owner or operator of the Project to lose the benefit of an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA.

(t) **As-Built Survey.** Intentionally Deleted.

(u) **Title, Liens and Encumbrances.** The Partnership owns a fee simple interest in the Land and the buildings and improvements comprising the Project Property and all personal property used in connection therewith, free and clear of all liens and encumbrances other than mortgages and other security instruments securing any of the Project Loans listed as exceptions in the owner's title insurance policy delivered to the Special Limited Partner on the date of its admission to the Partnership and those liens and encumbrances expressly agreed to in writing by the Special Limited Partner, including pursuant to *Section 5.3(p)*, if any. An owner's title insurance policy issued by the Title Company or a financially responsible institution acceptable to the Special Limited Partner, in an amount equal to the permanent Project Loans plus the Capital Contribution of the Limited Partner, for the Project Property, in favor of the Partnership, will be issued at or prior to the closing subject only to such easements, covenants, restrictions and such other standard exceptions as are normally included in owner's title insurance policies and which are Consented to in writing by the Special Limited Partner. The General Partner has not made any misrepresentation or failed to make any disclosure that will or could result in the Partnership lacking title insurance coverage based on imputation of knowledge of the General Partner to the Partnership. The General Partner will deliver the owner's title insurance policy to the Limited Partner within 30 days of the closing.

(v) **Zoning and Related Matters.** To the best of the General Partner's knowledge, the Project Property conforms (or will timely conform) in all material respects to all applicable laws, including, without limitation, all zoning, building, health, fire and environmental rules and regulations and there are no laws, planning rules, regulations, ordinances, requirements or environmental laws, regulations or procedures applicable to the Project Property that would inhibit or adversely affect the operation of the Project Property as a low income housing development.

(w) **Moratoria; Assessments; Dedications.** At the time of execution of this Partnership Agreement there is, and on the due date for payment of the Second Installment, Third Installment, Fourth Installment and Fifth Installment there will be, no reassessment (except for real estate property taxes), reclassification, rezoning, proceeding, ordinance or regulation (including amendments and modifications to any of the foregoing) pending or proposed to be imposed, by any Authority or any public or private utility having jurisdiction over the Land which would have a material, adverse effect upon the use or occupancy of the Project Property. At the time of execution of this Partnership Agreement, and on the due date for payment of the Second Installment, Third Installment, Fourth Installment and Fifth Installment, no special assessments have been levied against the Project Property or by an Authority upon the commencement or completion of any construction, alteration or rehabilitation on or of the Project Property or any portion thereof. Notwithstanding anything to the contrary herein, the General Partner will promptly notify the Special Limited Partner of any such actions, if and as they arise throughout the term of

this Agreement. Except as previously disclosed in writing to and approved by the Special Limited Partner, the completion of the improvements, construction, alteration or rehabilitation on or to the Project Property or any portion thereof will not require the dedication of any portion of the Project Property by any Authority. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (w) as long as the Limited Partner continues to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II**.

(x) **Governmental Actions**. To the best of the General Partner's knowledge, there is no official action of any Authority, pending or threatened, which in any way would (i) have an adverse effect on the Partnership, the Project Property, the Limited Partner or the Tax Credits; (ii) involve any intended public improvements which improvements may result in any charge in excess of \$10,000 being levied against the Land; or (iii) result in any special assessment, being levied against or assessed upon the Land or the Project Property. To the best of the General Partner's knowledge, there is no existing, proposed or contemplated, plan to widen, modify or realign any street or highway contiguous to the Land. The General Partner will promptly notify the Limited Partner of any such official actions or plans, if and as they arise. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (x) as long as the Limited Partner continue to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II**.

(y) **Environmental Conditions**. To the best of the General Partner's knowledge, the Project Property is not in violation of any federal, state or local law, ordinance or regulation relating to any environmental conditions on, under or about the Project Property, including, but not limited to, soil and groundwater conditions or the presence of mold. To the best of the General Partner's knowledge after due inquiry, and except as disclosed in the Phase I (as such term is defined below in *Section 5.3(z)*), no Hazardous Substance has been used, generated, manufactured, stored or disposed of on, under or about the Project Property, or transported to or from the Project Property.

(z) **Environmental Site Assessment**. In connection with the acquisition and development of the Project Property, the General Partner obtained two (2) Phase I Environmental Site Assessment Reports for the Project Property completed by Partner Engineering and Science, Inc. each dated December 14, 2020 and [**NEED TO ADD CURRENT REPORT**] (collectively, the "**Phase I**"), as prudent and appropriate inquiry into the previous ownership and uses of the Project Property consistent with good commercial practice, and to the best of the General Partner's knowledge and consistent with good commercial practice, such inquiries are sufficient for the Partnership to successfully establish an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA. In addition, nothing has occurred at the Project Property or, to the best of the General Partner's knowledge, to the surrounding area, which would make the conclusions set forth in the Phase I materially inaccurate and/or materially adversely impact the Project.

(aa) **CERCLA waivers, releases**. Neither the Partnership nor the General Partner, nor to the best of the General Partner's knowledge any predecessor in title of the Partnership, has given any waiver or release of liability pursuant to CERCLA or any other Environmental Law or any



similar applicable state or local law to any person or entity in the chain of title of the Project Property.

(bb) **Management of Project Property.** The General Partner will not, and will cause the Management Agent not to, (1) cause or permit any waste or damage to the Project Property, or (2) allow any tenant to use a residential unit within the Project Property or any of the common areas in any manner which is unlawful, hazardous, unsanitary, noxious or offensive or which unreasonably interferes with the use of the Project Property by the other tenants.

(cc) **Full Disclosure Concerning the Project Property.** All material information concerning the Project Property known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, has been disclosed by the General Partner to the Special Limited Partner and there are no facts or information known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, which would make any of the facts or information submitted by the General Partner to the Special Limited Partner with respect to the Project Property inaccurate, incomplete or misleading in any material respect.

(dd) **Insurance.** The General Partner has caused and will cause the Partnership, the General Contractor, the Architect and the Management Agent to maintain the insurance set forth on **Appendix VI** hereof.

(ee) **Allocation of Tax Credits; Tax Credit Percentage.** The State Housing Finance Agency delivered a valid State Designation with respect to the Tax Credits for the Project Property to the Partnership on [\_\_\_\_], 2021. The Tax Credit percentages for the Tax Credits associated with the acquisition and the rehabilitation shall not be less than 4.00%.

(ff) **Qualification for LIHTC Units.** At all times following the completion of the contemplated improvements to the Project Property, the General Partner shall use its best efforts to operate the Project Property in order to qualify 100% of the LIHTC Units in the Project Property for the Tax Credit with 100% of the tenants of such LIHTC Units qualifying under the appropriate income and rent restrictions of Section 42 of the Code, as the same may be modified pursuant to the Restrictive Covenant.

(gg) **Applicable Income and Rent Restrictions.** The Project Property is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including, without limitation, the tenant income and rent restrictions, applicable to projects generating Tax Credits under Section 42 of the Code. The Partnership will comply with the so-called “40-60 Set-Aside Test” of Code Section 42(g)(1)(B).

(hh) **Projected Tax Credits; Financial Forecasts.** The Projected Tax Credits that the General Partner has projected will be available to the Limited Partner are accurately set forth in **Appendix I**. The Projected Tax Credits are based upon the General Partner’s representation that the Project Property will have Qualified Occupancy. The General Partner further covenants that there is and at all times shall continue to be sufficient eligible basis (as defined in Section 42(d) of the Code) to provide the full amount of the Projected Tax Credits. The Financial Forecasts attached hereto as **Appendix II** are true, complete and accurate in all material respects. Except as permitted

herein, there shall be no changes to the operating or construction budget of the Project which would impact the Financial Forecasts without the Consent of the Special Limited Partner. Without limiting the foregoing, (i) the Financial Forecasts accurately allocate the Development Costs between non-depreciable and depreciable costs, and (ii) no portion of the Incentive Management Fee or Developer Fee is allocable to the organization of the Partnership, to the sale of any interests in the Partnership, or to any permanent financing arrangements.

(ii) **No Tax-Exempt Use Property.** The General Partner will not take any action which would cause the Project Property to be treated as tax exempt use property within the meaning of Section 168(h) of the Code.

(jj) **No Abusive Tax Shelter.** The General Partner has not received notice from the IRS that it has considered the General Partner to be involved in any abusive tax shelter and is not aware of any facts, which if known to the IRS, would cause such notice to be issued.

(kk) **Bankruptcy.** No Bankruptcy, including, without limitation, attachments, execution proceedings, assignments for the benefit of creditors, insolvency, reorganization or other proceedings is pending or threatened against the Partnership or the General Partner. The General Partner will not permit such a Bankruptcy to occur.

(ll) **Commitments to Third Parties.** The General Partner is not presently under any commitment to any real estate broker, rental agent, finder, syndicator or other intermediary with respect to the Project or any portion thereof, except for arrangements disclosed in writing to the Special Limited Partner prior to the date hereof.

(mm) **Federal Subsidies.** The Project is federally subsidized as defined in Section 42(i)(2) of the Code.

(nn) **Credit Period.** Intentionally Deleted.

(oo) **Grants.** The Partnership shall not accept any grants without the Consent of the Special Limited Partner.

(pp) **Fair Market Value.** The Project's fair market value, including the value of the tax benefits and favorable financing described in the Financial Forecasts, is reasonably expected to exceed all indebtedness secured by the Project Property at all times after the Project is Placed in Service.

(qq) **Restrictive Covenant.** The term of the Restrictive Covenant will not exceed [TBD] years. The Project shall be operated in accordance with, and residential units within the Project leased in compliance with, Section 42 of the Code and, on and after the effective date of the Restrictive Covenant, the Restrictive Covenant.

(rr) **Restrictions on Sale or Refinancing.** No restrictions on the sale or refinancing of the Project Property, other than restrictions that may be set forth in the Project Documents, exist as of the date hereof, and except as may be contained in the Restrictive Covenant encumbering title, no such restrictions shall, at any time while the Limited Partner is a Limited Partner, be placed upon the sale or refinancing of the Project Property.

(ss) **Compliance with Federal Fair Housing Act.** At all times during the term of this Partnership Agreement, the Partnership shall comply with the provisions of the Federal Fair Housing Act, as amended.

(tt) **Current Lease Terms.** All current leases (if any) for residential units in the Project Property are and all future leases will be for an initial term of at least one (1) year.

(uu) **Taxpayer Certifications.** On behalf of the Partnership, the General Partner will cause to be filed any and all certifications and other documents on a timely basis with the IRS, the State Housing Finance Agency and all other Authorities, as have been and may be required to support the full amount of Projected Tax Credits.

(vv) **Payment Certificates.** The General Partner shall comply with all of the obligations and requirements contained in the Payment Certificates, including the obligation to obtain the Consent of the Special Limited Partner before accepting any proceeds of the Project Loans.

(ww) **Governmental Note.**

(1) **Generally.** The General Partner, with the Consent of the Special Limited Partner, shall take such actions as may be necessary (after giving effect to applicable provisions of the Development Agreement) to assure that the percentage of the aggregate basis of the Land and buildings (including site improvements) financed with an obligation the interest on which is exempt from tax under Section 103 of the Code and which is within the Commonwealth of Virginia volume cap shall be not less than 50% as of Construction Completion and to assure that 50% or more of the aggregate basis of each of the buildings (including site improvements) at the Project and the Land attributable thereto are financed with an obligation the interest of which is exempt from tax under Section 103 of the Code and which is within the volume cap of the Commonwealth of Virginia. The interest paid on the Governmental Note is excludable by the recipient thereof from Federal income taxation, and the General Partner has done and performed, or caused to be done and performed, all acts and things necessary or desirable to assure that such interest is exempt; and neither the General Partner nor any other party has permitted at any time or times any of the proceeds of the Governmental Note or any other funds to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Governmental Note to be an arbitrage bond as defined in Section 148(a) of the Code. Notwithstanding anything else in this Partnership Agreement to the contrary, if the Developer fails to complete construction of the Project at a total depreciable cost such that the Project does not satisfy the “50% test” under Code Section 42(h)(4)(B), then the General Partner shall cause the Developer Fee to be reduced on a dollar for dollar basis to the extent the payment of such Developer Fee would cause less than 51% of the aggregate cost basis of the construction and the basis of the land on which the construction is located, as such terms are defined in Code Section 42(h)(4)(B), to be financed by the Governmental Note.

(2) **Tax Exempt Financing.** The General Partner will not take, or permit to be taken on its behalf, any action that would cause the interest payable on the Governmental Note to be included in gross income for federal income tax purposes, and will take such

action as may be necessary in the opinion of bond counsel to the Governmental Lender to continue such exclusion from gross income including, without limitation, the following:

(A) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, without limitation, the filing of all reports and certifications required by the Restrictive Covenant);

(B) the timely payment to the United States of America of any rebate amount required to be paid by the Governmental Lender or the Partnership pursuant to Section 148(f) of the Code and the Treasury Regulations under Section 148; and

(C) the use of not less than 95% of the net proceeds of the Governmental Note (within the meaning of Section 142(a) of the Code) for costs to provide a “qualified residential rental project” within the meaning of Section 142(d) of the Code that are properly chargeable to the Partnership’s capital account.

(3) Governmental Note not Federally Guaranteed. The Governmental Note is not “federally guaranteed” as defined in Section 149(b) of the Code.

(4) 120% Test. In accordance with Section 147(b) of the Code, the weighted average maturity of the Governmental Note does not exceed 120% of the weighted average reasonably expected economic life of the facilities (comprising the Project Property) financed with the net proceeds of the Governmental Note, determined as the later of the date the Governmental Note is issued or the date the facilities are expected to be Placed in Service.

(5) No Related Purchasers. Neither the Partnership nor any General Partner, nor any related person thereto (within the meaning of Section 147(a)(2) of the Code) will purchase the Governmental Note pursuant to any arrangement, formal or informal.

(6) Section 149 Certificate. The information furnished by the Partnership and used by the Governmental Lender preparing the certificate pursuant to Section 149(e) of the Code is accurate and complete as of the date of issuance of the Governmental Note.

(7) Commencement Date. The acquisition, rehabilitation and equipping of the Project Property were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60<sup>th</sup> day preceding the [ ] official action of the Governmental Lender with respect to the Project Property, and no obligation for which reimbursement will be sought from proceeds of the Governmental Note relating to the acquisition, construction or equipping of the Project Property was paid or incurred prior to 60 days prior to such date.

(8) Repayment of the Governmental Note. The Governmental Note shall not be repaid prior to placement in service of the Project.

(xx) Depreciation. Unless the Limited Partner shall specify a different permissible treatment in writing, and except to the extent otherwise required by Section 168(g)(1)(B) of the Code, the Partnership, in accordance with *Section 7.2*, shall depreciate substantially all of its

residential rental property, site improvements and personal property costs, respectively, over thirty (30) years, fifteen (15) years and five (5) years for federal income tax purposes. Subject to the provisions of *Section 5.4*, all other elections required or permitted to be made by the Partnership under the Code shall be made by the General Partner with the Consent of the Limited Partner. The General Partner will not make any election under Section 168(k) of the Code to elect out of “bonus depreciation”, unless instructed to do so, in writing, by the Limited Partner. The General Partner shall cooperate with the Special Limited Partner to provide documentation necessary to complete the Cost Segregation Study and deliver the Cost Segregation Study by January 31<sup>st</sup> in the year following when the Project is Placed in Service.

(yy) **Designated Nationals.** The General Partner, the Developer, the Guarantor and any of their respective Affiliates that are under contract with respect to the Project (the “Sponsor Entities”): (i) are in compliance with all applicable anti-money laundering laws, including, without limitation, the USA Patriot Act, and the laws administered by the United States Treasury Department’s Office of Foreign Assets Control (“OFAC”), including, without limitation, Executive Order 13224, (ii) are not, nor is any Affiliate of the Sponsor Entities, on the Specially Designated Nationals and Blocked Persons List maintained by OFAC, and (iii) are not otherwise identified by a government entity or legal authority as a person with whom a U.S. Person (as defined below) is prohibited from transacting business. As used herein, “U.S. Person” shall mean any United States citizen, any permanent resident alien, any entity organized under the laws of the United States (including foreign branches), or any person in the United States.

(zz) **Survival of Representations and Warranties.** All of the representations, warranties and covenants contained herein shall be deemed to be re-made as of the date of each Capital Contribution made by the Limited Partner and shall survive the funding date of each such Capital Contribution. The General Partner shall indemnify and hold harmless the Limited Partner against a breach of any of the foregoing representations, warranties and covenants and any damage, loss or claim caused thereby, including reasonable attorneys’ fees and costs and expenses of litigation and collection.

(aaa) **Election under Section 163(j)(7)(B) of the Code.** The General Partner agrees that, unless directed otherwise by the Limited Partner, the Partnership shall make the election under Section 163(j)(7)(B) of the Code to be an Electing Real Property Trade or Business (as such term is defined in Section 163(j)(7)(B) of the Code). In addition, if directed by the Limited Partner, the General Partner shall elect out of bonus depreciation allowed under Section 168(k) of the Code on one or more classes of property for one or more years or if allowable, elect less than the maximum amount of bonus depreciation.

(bbb) **Section 266 Election.** The General Partner may make an election pursuant to Section 266 of the Code to capitalize interest on the Tax Exempt Loan and the Bridge Loan, subject to the Consent of the Limited Partner which shall not be unreasonably withheld. [CREA TO CONFIRM IF APPLICABLE]

**Section 5.4** **Specific Obligations of the General Partner.** Except as otherwise set forth in this Agreement, the General Partner shall, on behalf of and in the name of the Partnership and in addition to any obligations placed upon it elsewhere in this Partnership Agreement, have the following specific obligations:

(a) **Construction Draws.** All Capital Contribution installments made through Construction Completion shall be funded on a monthly draw basis. Concurrently with the date a construction draw request is made to a lender, or when a request for payment of an equity installment of the Limited Partner's Capital Contribution is made during the construction period, the General Partner shall furnish to the Special Limited Partner a copy of any such documents submitted to the lender as part of a construction draw and copies of the following documents:

- (1) a completed hard cost requisition form in the form of standard industry AIA documents G702 and G703, or other pre-approved forms, executed by the General Partner and containing a separate breakdown of soft costs and invoices attached to such form;
- (2) sworn statements of the General Contractor, and unconditional waivers of any lien (subject only to payment for the work set forth therein) covering all work in excess of \$50,000, together with such invoices, contracts or other supporting data as the Special Limited Partner may require to evidence that all costs for which disbursement is sought have been incurred;
- (3) copies of any change orders, whether proposed or executed, which have not been previously furnished to the Special Limited Partner;
- (4) a title certificate date down endorsement or updated title search dated within 15 days of the draw request, showing no new liens or exceptions (other than those approved by the Special Limited Partner or bonded pursuant to Section 5.3(p)) herein), dated as of the date of the construction draw;
- (5) an updated detail of the sources and uses, acceptable in form to the Special Limited Partner and containing information on both the total project and the actual draw requests; and
- (6) receipt of all open items identified on **Appendix IX**, if any, on or before such times as described in **Appendix IX**.

In connection with the construction draws described in this *Section 5.4(a)*, which include a request for the payment of an Installment of the Limited Partner's Capital Contribution, the Special Limited Partner will select an inspecting representative for the Project to perform inspections for the sole benefit of the Limited Partner (the "**Inspecting SLP Representative**"). The Inspecting SLP Representative shall perform a site inspection for the funding of the Second Installment and Third Installment and no less than twice during the initial six-month period of construction. The Inspecting SLP Representative will be invited to all monthly construction progress meetings with the Funding Lender. The Limited Partner and the Special Limited Partner do not warrant or otherwise endorse the findings of the Inspecting SLP Representative.

(b) **Securities Law Matters.** To the extent required, the General Partner shall prepare and file all appropriate reports for the Partnership with the Securities and Exchange Commission and state securities administrators.

(c) **Limited Partnership Status.** The General Partner shall (i) file such certificates and do such other acts as may be required to qualify and maintain the Partnership as a limited partnership under the Act and to qualify the Partnership to transact business in all such jurisdictions as may be required under applicable provisions of law and (ii) take or cause the Partnership to take all reasonable steps deemed necessary by counsel to the Partnership to assure that the Partnership is at all times classified as a partnership for federal income tax purposes.

(d) **Partnership Representative.** The General Partner shall constitute the “partnership representative” (the “Partnership Representative”) for each taxable year of the Partnership under the Revised Partnership Audit Procedures. The Partners have designated Roger Heim to serve as the sole individual through whom the Partnership Representative will act for each taxable year of the Partnership as required by Treas. Reg. §301.6223-1 (the “Designated Individual”). The Designated Individual, pursuant to the acknowledgement attached hereto as Appendix XII, hereby agrees to be bound by this *Section 5.4(d)*. If the Designated Individual resigns or is otherwise unsuitable (in the sole and absolute judgement of the Special Limited Partner) to act as the Designated Individual for a taxable year or years (including, without limitation, by reason of death, incapacity, or change of employment), then, to the extent permitted by law, (a) on behalf of the Partnership, the Partnership Representative, in consultation with and with the Consent of the Special Limited Partner, shall nominate an eligible individual to serve as the Designated Individual for such taxable year or years, and (b) the Partnership will take all necessary and appropriate steps to replace such Designated Individual for such taxable year with the Designated Individual nominated under the preceding clause (a). Notwithstanding the foregoing, the Designated Individual shall resign upon the request of the Partnership Representative or if the Designated Individual (i) leaves the employment of the General Partner or the General Partner’s Affiliate (ii) becomes employed by the IRS or (iii) is imprisoned. Any individual designated as the Designated Individual shall act diligently, promptly, and in good faith to perform its duties hereunder, including such actions as may be necessary to collect any data that it needs to minimize the Partnership and any Partners’ tax liability in accordance with the Revised Partnership Audit Procedures, which may include the filing of amended returns or, with the Consent of the Special Limited Partner, making Administrative Adjustment Requests, where appropriate. In addition, in the event of any Final Partnership Adjustment occurring under the procedures of the Revised Partnership Audit Procedures, unless the Consent of the Special Limited Partner is obtained for doing otherwise, the Partnership shall timely elect to utilize the alternative procedure described in Section 6226 of the Code (as modified by the 2015 Act), and the Partnership Representative shall provide the IRS and each affected Partner with such information as required by such Section 6226 and any Treasury Regulations promulgated thereunder. Each Partner agrees to cooperate with the Partnership in utilizing the procedures under Section 6226 of the Code whether or not such person is a Partner at the time of a Final Partnership Adjustment. The General Partner’s designation as the Partnership Representative shall include the General Partner serving in such capacity after the termination of the Partnership with respect to IRS audits and proceedings. The Partnership Representative and Designated Individual shall comply with any reasonable request given by the Special Limited Partner at any time with regard to making an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions and elections on behalf of the Partnership, or the Limited Partner for any taxable year and shall not make an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions or elections on behalf of the Partnership, or the Limited Partner for any taxable year without obtaining the Special Limited Partner’s prior written Consent. Notwithstanding anything to the contrary contained

herein, neither the General Partner, in its capacity as the Partnership Representative, nor the Designated Individual shall take any of the following actions, without first obtaining the Consent of the Special Limited Partner:

- (1) Extend the statute of limitations for assessing or computing any tax liability against the Partnership (or the amount or character of any Partnership tax item);
- (2) Settle any audit with the IRS concerning the adjustment or readjustment of any Partnership tax item; provided, however, if the General Partner is willing to settle an audit but the Limited Partner refuses to consent to such settlement, then the Special Limited Partner shall be responsible for any additional penalties, interest or increased settlement amount payable to the IRS and incurred as a direct result of the Limited Partner's refusal to consent to the General Partner's earlier request for settlement;
- (3) File a request for an administrative adjustment with the IRS at any time or file a petition for judicial review with respect to any IRS adjustment;
- (4) Initiate or settle any judicial review or action concerning the amount or character of any Partnership tax item;
- (5) Intervene in any action brought by any other Partner for judicial review of a final adjustment of any Partnership tax item;
- (6) Elect any depreciation schedule other than 30 years for the buildings comprising the Project; or
- (7) Take any other action that would have the effect of finally resolving a tax matter affecting the rights of the Partnership and its Partners.

The General Partner and Designated Individual shall keep the Special Limited Partner advised of any dispute the Partnership may have with any federal, state or local taxing authority and shall afford the Special Limited Partner the right to participate directly in negotiations with any such taxing authority in an effort to resolve any such dispute.

The Partnership Representative and Designated Individual shall obtain the Consent of the Special Limited Partner before taking any of the actions specified in this *Section 5.4(d)*, regardless of whether the Partnership has been dissolved or any Limited Partner has withdrawn from the Partnership, voluntarily or involuntarily, if the result of such actions would adversely affect the Limited Partner.

Notwithstanding anything to the contrary herein: (i) upon the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement or upon the removal of the General Partner for any reason under *Section 9.6* of this Partnership Agreement, the Limited Partner may replace the Partnership Representative or Designated Individual, (ii) the Partnership Representative and Designated Individual shall have a fiduciary responsibility to protect the interests of the Limited Partner, (iii) prior to appointing any individual to serve in the capacity of Partnership Representative or Designated Individual, that individual shall acknowledge and consent in writing to comply with the provisions of this *Section 5.4(d)*, and



(iv) the General Partner shall indemnify, defend and hold the Limited Partner harmless from any loss, cost or expense incurred by the Limited Partner as a result of the failure of the Partnership Representative or Designated Individual to comply with the terms of this *Section 5.4(d)*.

The provisions of this *Section 5.4(d)* and each Partner's obligations under this *Section 5.4(d)* shall survive the termination and/or liquidation of the Partnership and/or the transfer or liquidation of such Partner's interest in the *Partnership*.

(e) **Governmental Filings.** The General Partner shall prepare, sign and submit to the Secretary of the Treasury, the applicable state housing agency and any other governmental authority having jurisdiction over the Project Property, on a timely basis, any and all annual reports, information returns and other certifications and information required by any such governmental agency. The General Partner shall comply with all other applicable requirements of any federal, state or local agency having jurisdiction over the Project Property, including, without limitation, any requirements of any such governmental agency with respect to the funding and maintenance of any operating or capital improvement reserves for the Project Property.

(f) **Bank Accounts.** The General Partner shall establish in the name and on behalf of the Partnership such bank accounts as shall be required to facilitate the operation of the Partnership's business. The Partnership's funds shall not be commingled with any other funds of the General Partner or any of its Affiliates, including without limitation, any other partnership or limited liability company in which the General Partner is a general partner or managing member. Funds of the Partnership held in bank accounts shall be deposited in one or more accounts maintained in FDIC insured banking institutions approved by the Special Limited Partner; *provided, however*, for the avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amounts on deposit in any particular account are in excess of Federal Deposit Insurance Corporation insurance limits. Promptly upon the request of the Special Limited Partner, the General Partner shall obtain and deliver to the Special Limited Partner full, complete and accurate statements of the amount and status of all Partnership bank accounts and all withdrawals therefrom and deposits thereto.

(g) **Completion Guaranty.**

(1) The General Partner hereby guarantees (and Guarantor, pursuant to the Guaranty Agreement absolutely and unconditionally guarantees) to the Partnership, the Limited Partner and the Special Limited Partner that (a) the Project Property will be constructed in a good and workmanlike manner free and clear of all mechanics' and similar liens not otherwise bonded over in a cumulative amount not to exceed \$100,000, in accordance with the Plans and Specifications and in accordance with the terms, conditions and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property on or before the Construction Completion Date and (b) the payment of all development costs and fees (including if not deferred, the Developer Fee) as well as any Operating Deficits attributable to owning and operating the Partnership and the Project Property until achievement of Stabilized Operations plus the initial funding of the Operating Reserve and the Replacement Reserve required herein (collectively referred to herein as "Development Costs"), which may be paid through the additional deferral of the

Developer Fee, provided the Special Limited Partner reasonably determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full from Cash Flow prior to maturity of the Deferred Development Fee Note. The obligations of the General Partner under the foregoing sentence include, without limitation, providing all funds required of the Partnership to achieve Construction Completion of the Project Property (to the extent not then available under *Section 4.1* hereof or from the Project Loans or Capital Contributions), including, without limitation, cash equity, and to pay any unanticipated or additional development or construction costs, on and off-site escrows, taxes, insurance premiums, and interest. Such costs will also include a ratable portion of the annual amount of seasonal and/or periodic expenses, including but not limited to utilities, maintenance expenses and real estate taxes, which might reasonably be expected to be incurred on an unequal basis during a full annual period of operation. The repayment of any borrowings arranged by the General Partner to fund its obligations under this *Section 5.4(g)* shall be the sole obligation of the General Partner. Up to \$3,143,624 of payments made by the General Partner under this *Section 5.4(g)* shall be treated as non-interest bearing loans (the “Development Deficit Loans”) and shall be repaid in accordance with *Section 4.1* and *Section 4.2*. Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under this *Section 5.4(g)(1)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(2) In the event that the General Partner (and the Guarantor, pursuant to the Guaranty Agreement) fails to pay Development Costs as required under this *Section 5.4(g)*, an amount not in excess of the total of any remaining unpaid Limited Partner Capital Contribution installments may, in the discretion of the Special Limited Partner, be applied by the Partnership to meet such obligations of the General Partner. Any such direction and application of funds otherwise payable pursuant to *Section 2.2* hereof shall constitute reductions in amounts owed pursuant to *Section 2.2*, and the Limited Partner’s obligation to make such installment payments pursuant to *Section 2.2*. Any unpaid Limited Partner Capital Contribution applied by the Partnership to meet the General Partner’s obligations shall be deemed to have been paid to the General Partner and subsequently paid by the General Partner in satisfaction of its obligation hereunder. The obligations of the General Partner pursuant to *Section 5.4(g)* shall be satisfied to the extent of the funds applied.

(h) **Operating Reserve and Replacement Reserve.**

(1) Operating Reserve. The General Partner shall establish and fund (and the Guarantor, pursuant to the Guaranty Agreement, absolutely and unconditionally guarantees) the Operating Reserve in the Operating Reserve Amount with proceeds from the [Fifth] Installment and other available Project funds. The Operating Reserve shall be held in the Operating Reserve Account at a financial institution selected by the Special Limited Partner, which account shall be maintained during the Compliance Period and may be released in accordance with this *Section 5.4(h)(1)*. The Operating Reserve shall be used to fund operating and debt service deficits and withdrawals shall require the signature of the General Partner and the Consent of the Special Limited Partner for withdrawals (which shall not be unreasonably withheld and shall be deemed given if the Special Limited

Partner has not responded within 10 Business Days). Upon exhaustion of the Operating Reserve Account, continuing shortfalls shall be funded from the Operating Deficit Guaranty described below in *Section 5.4(i)*. The Operating Reserve will be held by the Partnership through the end of the Compliance Period. Funds remaining in the Operating Reserve at the end of the Compliance Period will be released and distributed in accordance with *Section 4.1(a)*.

(2) **Replacement Reserve.** The Replacement Reserve shall be maintained by the Partnership in the Replacement Reserve Account, which Account shall be maintained during the Compliance Period. The Replacement Reserve shall be utilized to pay for the acquisition or replacement of capital improvements or replacements and the cost of repairs to property, and shall require the signature of the General Partner and the approval of the Special Limited Partner for withdrawals for items that are not contained in the approved annual budget and for items not listed in **Appendix VII** hereof (“**Ineligible Replacement Items**”). Notwithstanding anything contained herein to the contrary, if the Funding Lender controls the Replacement Reserve, the Special Limited Partner shall be notified of any withdrawal, but the Special Limited Partner’s Consent shall not be required for withdrawals from the Replacement Reserve that have been approved by the Funding Lender. In those cases where the Special Limited Partner’s Consent from the Replacement Reserve Account is applicable, such Consent shall not unreasonably be withheld, and shall be deemed given if the Special Limited Partner has not responded within ten (10) Business Days.

(3) **Debt Service Reserve.** The Debt Service Reserve may be funded to meet Stabilized Operations and will be utilized to fund Operating Deficits in advance of a funding under the Operating Reserve with the Consent of the Special Limited Partner. The Debt Service Reserve will be held until the second anniversary of the Stabilized Operations Date and then released if the Project has met the Debt Coverage Ratio Requirement using the most recent audited financials and using the methodology described in the Tax Exempt Loan definition (provided that the Project may use actual Operating Expenses beginning on the third anniversary of the Stabilized Operations Date). The General Partner may request that Special Limited Partner calculate the deficits to the Debt Coverage Ratio Requirement once annually and any amount of the Debt Service Reserve in excess of the projected deficits will be released in accordance with *Section 4.1*.

(i) **Operating Deficit Guaranty.** The General Partner is obligated promptly upon the reduction of the Operating Reserve Account to zero to provide, without limitation in amount or duration, funds to the Partnership for Operating Deficits. The Guarantor, pursuant to the Guaranty Agreement, jointly and severally with the General Partner, are obligated promptly upon the reduction of the Operating Reserve Account to zero to provide funds to the Partnership for Operating Deficits except that the Guarantor shall not be obligated to make Operating Deficit Loans under this *Section 5.4(i)* to the extent that the outstanding principal amount of such Operating Deficit Loans exceeds \$[TBD] or the Operating Deficit Guaranty Period has expired. Repayment of any letters of credit or other borrowings arranged by the General Partner and/or Guarantor in furtherance of its obligations under this *Section 5.4(i)* shall be the sole obligation of the General Partner and/or Guarantor. Funds made available by the General Partner and/or Guarantor pursuant to this *Section 5.4(i)* and/or the Guaranty Agreement shall be treated as non-interest bearing loans to the Partnership repayable as provided in *Section 4.1* and *Section 4.2*

(“Operating Deficit Loans”). Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under this *Section 5.4(i)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(j) **Qualified Occupancy.** The Project Property shall achieve Qualified Occupancy on or before the Qualified Occupancy Date.

(k) **Cooperation with Asset Manager.** The General Partner shall cooperate and shall cause the Management Agent to cooperate fully with the Asset Manager so that the Asset Manager may carry out its duties and obligations.

(l) **Permanent Loan Shortfall Guaranty.** The General Partner has or will obtain on behalf of the Partnership the Tax Exempt Loan, as more particularly described in Appendix IV. The General Partner shall be obligated to provide funds to the Partnership in the event that the actual proceeds of the Tax Exempt Loan or any other loan source are less than the anticipated amount of the Tax Exempt Loan or any other such loan or loan proceeds as set forth in the Financial Forecast (a “Permanent Loan Shortfall”). The Limited Partner shall permit the deferral of additional Developer Fee (provided in the Limited Partner’s reasonable discretion, the Financial Forecasts demonstrate such deferred fee can be paid in full from Cash Flow prior to the expiration of the Compliance Period) to initially fund the Permanent Loan Shortfall. Funds made available pursuant to this *Section 5.4(l)* shall be evidenced by a note (the “Permanent Loan Shortfall Note”) with terms no less favorable than the terms of the Tax Exempt Loan or such other loan (as determined by the Special Limited Partner) and shall be repaid as provided in *Section 4.1* and *Section 4.2*. The Permanent Loan Shortfall Note shall be unsecured.

(m) **Syndication and Permanent Financing.** The General Partner shall be and has been responsible for procuring acceptable permanent financing for the Project and for all duties relating to the syndication of the Partnership with the Limited Partner and the Special Limited Partner.

(n) **Special Operating Obligation for Loss or Reduction of HAP Contract.** If, in any year during the Compliance Period, the HAP Contract is not funded or is only partially funded, then the General Partner and the Guarantor, pursuant to the Guaranty Agreement, are obligated to pay to the Partnership through the end of the Compliance Period, an amount equal to the difference between (i) the actual rent collected, and (ii) the amount of rent that would have been collected under the fully funded HAP Contract, increased annually by 2% through the remainder of the Compliance Period. The General Partner and the Guarantor shall not be required to pay any amount under this provision that would be more than necessary to avoid an Operating Deficit that would cause the Project to operate below a 1.0 to 1.0 Debt Coverage Ratio. Any amount paid under this provision shall constitute an Operating Deficit Loan.

**Section 5.5 Fees for Services Rendered.** The Partnership shall pay the following described fees to the Persons that are Affiliates of one or more Partners indicated below:

(a) **Developer Fee.** As provided in the Development Agreement, the Partnership shall pay the Developer Fee to the Developer for the services and obligations described in the Development Agreement.

(b) **Incentive Management Fee.** The Partnership shall pay to the General Partner the Incentive Management Fee in the amount and priority specified in *Section 4.1* and as further provided in the Incentive Management Agreement.

(c) **Incentive Leasing Fee.** The Partnership shall pay the General Partner an Incentive Leasing Fee in the amount and in the priority specified in *Section 4.1* until the Project has achieved Stabilized Operations, as further provided in the Incentive Leasing Agreement.

(d) **Asset Management Fee.** The Asset Management Fee shall be paid annually by the Partnership to the Asset Manager in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided in the Asset Management Services Agreement. The Asset Manager shall not incur any liability to the General Partner or the Partnership as a result of the Asset Manager's performance of or failure to perform its asset management services. The Asset Manager owes no duty to the General Partner or the Partnership and may be terminated by the Limited Partner only.

(e) **Partnership Management Fee.** The Partnership shall pay to the General Partner the Partnership Management Fee in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided the Partnership Management Agreement.

The Development Agreement, the Incentive Management Agreement, the Partnership Management Agreement and any other agreement entered into by the Partnership, the General Partner or any Affiliate thereof shall specifically provide that such agreement shall be terminable at the election of the Special Limited Partner if the General Partner is removed pursuant to *Section 9.6*.

None of the payments or reimbursements to any of the Persons indicated above shall be considered a distribution of Cash Flow to any Partner and, except as otherwise specifically provided herein, the General Partner may make any such reimbursement or payment prior to any distribution of any Cash Flow to the Partners.

**Section 5.6 Reimbursement of Expenses.** The Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the formation and organization of the Partnership as and to the extent provided in the Financial Forecasts. In addition, except as otherwise provided herein, the Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the operation of the Partnership's business, including, but not limited to, reasonable costs and expenses incurred by any such Partner in connection with the exercise of any consent hereunder.

**Section 5.7 Outside Ventures of Partners.** Any Partner may engage in or possess an interest in any other business venture of any type or description, independently or with others (including, without limitation, any venture which may be competitive with the business being conducted by the Partnership) and neither the Partnership, nor any Partner

will, by virtue of this Partnership Agreement, have any right, title or interest in or to such outside ventures or the income or other benefits derived therefrom.

**Section 5.8**        **Dealing With Affiliates.** The General Partner may employ or retain in any capacity any Partner or Affiliate of any Partner so long as the terms upon which such Partner or such Affiliate is employed or retained are commercially reasonable under the circumstances and comparable to those terms which could be obtained from an independent person for comparable services in the area where the Project is located or the Partnership has its principal office.

**Section 5.9**    **Indemnification of Partnership, Limited Partner and Special Limited Partner.**

(a)        The General Partner hereby agrees to defend, indemnify and hold harmless the Partnership, the Limited Partner and the Special Limited Partner and their Affiliates and successors, from and against any loss, claims, demands, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees or damage (including foreseen and unforeseen damage and consequential damages) arising directly or indirectly out of the presence on, under or about the Project Property of any Hazardous Substance, or the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Project Property.

(b)        The General Partner shall indemnify, defend and hold harmless the Limited Partner and the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part, out of a breach of any or all of the representations, warranties and covenants made by the General Partner contained in this Partnership Agreement, including, without limitation, those contained in *Section 5.3* hereof. In addition to the foregoing indemnification, the Limited Partner and/or the Special Limited Partner may pursue any other available legal or equitable remedy against the General Partner with respect to the General Partner's breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Limited Partner's deferral of the payments of its Capital Contributions pursuant to *Section 2.2*.

(c)        The General Partner shall indemnify, defend and hold harmless the Limited Partner, the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part from any prior letters of intent or equity proposals from other potential tax credit investors that may exist.

(d)        The General Partner's obligations described in this *Section 5.9* will survive the termination and/or liquidation of the Partnership provided the loss, claims, demands, liabilities, lawsuits or other proceedings, judgments, awards, costs and expenses including, attorneys' fees or damage arise directly or indirectly from an event that first occurred prior to the termination and/or liquidation of the Partnership.

(e) The Partnership shall indemnify, defend and hold harmless the Limited Partner and Special Limited Partner against any third-party claims or costs sustained or incurred by it arising out of its investment in the Partnership, provided that the same were not the result of any improper action or omission on the part of such Limited Partner, Special Limited Partner or any Affiliate thereof; and provided, further, that the General Partner shall be primarily and concurrently liable for any claims or costs sustained within the scope of either *Section 5.9(a)* or *Section 5.9(b)*.

## **Section 5.10 Credit Adjusters.**

### **(a) Basis Adjuster**

(1) If, as of the end of the first year of the Credit Period and based upon Cost Certification by the Accountants, it is determined that the amount of Actual Tax Credits over the Credit Period for the Project will be less than Projected Tax Credits (as adjusted pursuant to *Section 5.10(a)(2)*), hereinafter referred to as a “Permanent Credit Shortfall”, then the Limited Partner shall be entitled to a return of its Capital Contributions or, if not fully paid, a reduction of same commencing with the Installment coming next due and so on until fully offset but only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the “Permanent Credit Shortfall Adjustment”) in an amount equal to the product of (i) the Permanent Credit Shortfall and (ii) \$0.885. The Permanent Credit Shortfall shall mean the amount by which the Actual Tax Credits are or will be less than the Projected Tax Credits over the Credit Period due to (i) the actual Applicable Percentage being less than projected; (ii) the actual Eligible Basis being less than projected; (iii) the actual Qualified Basis as of the end of the first year of the Credit Period being less than projected Qualified Basis; (iv) the actual final allocation of Tax Credits as indicated on IRS Form 8609 being less than the Projected Tax Credits; or (v) any combination of the above. If any Permanent Credit Shortfall Adjustment required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Permanent Credit Shortfall Adjustment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however,* that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Permanent Credit Shortfall Adjustment shall be paid by the General Partner directly to the Limited Partner as a guaranty payment and calculated on an After-Tax Basis, and the General Partner shall not receive any Capital Account credit for such payment; *provided, further,* if such Permanent Credit Shortfall Adjustment is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Permanent Credit Shortfall Adjustment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Permanent Credit Shortfall Adjustment.

(2) In the event that the amount of Actual Tax Credits that will be available, based upon the actual Qualified Basis as of the end of the first year of the Credit Period, the actual Applicable Percentage, and final allocation of Tax Credits, is greater than the

Projected Tax Credits, the Limited Partner may, as set forth below, increase its Capital Contribution once during the twelve-month period following Construction Completion in an amount equal to the product of (i) the amount by which the Actual Tax Credits are greater than the Projected Credits over the Credit Period and (ii) \$0.885. The Limited Partner shall pay the amount of such increase at the time of the final installment of Capital Contribution. Notwithstanding the foregoing, the additional Capital Contribution paid pursuant to this *Section 5.10(a)(2)* shall not exceed the Upward Adjuster Cap. To the extent the amount of any increase in the Limited Partner's Capital Contribution under this *Section 5.10(a)(2)* would exceed the Upward Adjuster Cap, and the Limited Partner does not elect to contribute an amount in excess of the Upward Adjuster Cap, the Interests of the Limited Partner and the General Partner shall each be adjusted so that the additional Tax Credits will be allocated to the General Partner. Any adjustment of Tax Credits under the foregoing sentence shall not reduce the internal rate of return to the Limited Partner below the internal rate of return set forth in the Financial Forecasts.

(3) In the event that any Limited Partner Capital Contribution installments are repaid or reduced or the General Partner payments are required to be made under this *Section 5.10(a)*, the pro forma Financial Forecasts attached hereto as **Appendix II** shall be correspondingly revised and shall be considered amendments and determinative of the "Projected Tax Credits" and other amounts set forth herein if there is a conflict between any amounts set forth therein and in this Partnership Agreement.

(b) **Timing Difference in Tax Credit.**

(1) If, prior to the end of 2022, 100% of the Projected Tax Credits cannot be claimed (as determined by the Accountant) by the Limited Partner in the anticipated Fiscal Year but must be delayed and taken in a later year or years, then the Limited Partner shall be entitled to a reduction of its Capital Contribution commencing with the installment coming next due and so on until fully offset provided that the amount of the offset shall not exceed the amount of the Developer Fee payable in such Capital Contribution and only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the "Timing Reduction") in an amount equal to \$0.64 for each \$1.00 that the Actual Tax Credits for such years are less than the Projected Tax Credits for such years. This Timing Reduction is designed to compensate the Limited Partner for the reduced present value of such delayed Tax Credits. In order not to adjust under this *Section 5.10(b)* for any shortfall in Tax Credits for which an adjustment shall have been made pursuant to *Section 5.10(a)*, the term "Projected Tax Credit" shall be revised, as provided for in *Section 5.10(a)(3)*, to reflect the actual Applicable Percentage for the Project and the actual Eligible Basis for the Project, but not taking into account any delays in placing the Project, or any portion thereof, in service. If any Timing Reduction required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Timing Reduction, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however*, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Timing Reduction shall be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General



Partner shall not receive any Capital Account credit for such payment; *provided, further*, if such Timing Reduction is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Timing Reduction shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Timing Reduction. Notwithstanding the foregoing, any Timing Reduction described herein may be offset through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonable determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full form Cash Flow prior to maturity.

(2) INTENTIONALLY OMITTED.

(c) **Material Credit Shortfall**. If, for any Fiscal Year, for any reason whatsoever, but only if such Credit Shortfall has not previously been addressed pursuant to *Section 5.10(a)* and *(b)* hereof, (1) the Actual Tax Credits are, on a cumulative basis, less than the Projected Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* or *(b)*) for such Fiscal Year or (2) the Limited Partner is required to recapture (resulting from other than a transfer of part or all of the Limited Partner's Partnership Interest) all or any part of the Tax Credits claimed by it in any prior Fiscal Year of the Partnership ("Credit Shortfall"), then the General Partner and Guarantor, pursuant to the Guaranty Agreement, shall be obligated, subject to the limitations expressed herein, to pay to the Limited Partner the amount ("Credit Reduction Payment") equal to the sum of: (I) \$1.00 multiplied by the Credit Shortfall; (II) the amount of any interest and/or penalties paid or payable by the Limited Partner as a result of any Recapture Event affecting the foregoing calculation of the Tax Credits recaptured in such Fiscal Year; and (III) 10% of the amounts in *clauses (I)* and *(II)* per annum commencing on the date the Credit Shortfall occurs and continuing until the payment of the amount of such Credit Reduction Payment in full. The General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Credit Reduction Payment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; provided, however, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Credit Reduction Payment will be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such repayment. Provided, further, (i) if at any time a Credit Reduction Payment is due under this *Section 5.10(c)* solely due to change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, such Credit Reduction Payment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, and (ii) upon the expiration of the Operating Deficit Guaranty Period, Credit Reduction Payments under this *Section 5.10(c)* shall be paid solely from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, except that the General Partner and Guarantor shall continue to be responsible for the payment of Credit Reduction Payments which result from a Compliance Failure. Notwithstanding the foregoing or any other provision of this Partnership Agreement to the contrary, if the Project is destroyed by fire or other casualty, the Project shall be promptly restored and rebuilt within the time period

permitted under Section 42 of the Code provided that, the Project need not be rebuilt if the Limited Partner is repaid its total Capital Contribution together with an after tax return of 9% per annum on such sum commencing on the date(s) the Limited Partner paid its Capital Contribution installments and ending on the date of repayment.

(d) **Failure to Pay; Remedies.** If the General Partner or Guarantor fails to pay any amount payable pursuant to *Section 5.10(a), (b) or (c)* above, or the repurchase amount pursuant to *Section 5.10(e)* below, owing to the Limited Partner within 30 days after written demand of the Limited Partner or the Special Limited Partner, then, in addition to any other rights the Limited Partner or the Special Limited Partner may have, any amounts due and owing to the Limited Partner and the Special Limited Partner shall be paid as follows: (1) First, any sums payable to the General Partner (or any Affiliate thereof) pursuant to the terms of this Partnership Agreement (including, without limitation, Cash Flow and any fees payable by the Partnership to the General Partner or its Affiliates) shall instead be paid to the Limited Partner until such time as all amounts owing to the Limited Partner pursuant to this *Section 5.10* are fully repaid (for purposes of this Partnership Agreement, any sums paid to the Limited Partner pursuant to the immediately preceding sentence shall be deemed to have been paid to the General Partner (or its Affiliates) and subsequently paid by the General Partner (or its Affiliates) to the Limited Partner in satisfaction of its obligations hereunder; (2) Second, the remaining amounts shall be paid to the Limited Partner out of Cash Flow or Net Cash from Sales and Refinancings in accordance with *Section 4.1* and *Section 4.2* hereof; and (3) Third, the remaining amounts shall be paid to the Limited Partner out of the Operating Reserve or any other reserve of the Partnership. The rights and remedies granted to the Limited Partner by this *Section 5.10* shall not be exclusive of, but shall be in addition to, any other rights and remedies granted to the Limited Partner under this Partnership Agreement or by applicable law. The obligations of the General Partner under this *Section 5.10* shall be deemed to have arisen as a consequence of a transaction between the General Partner and the Limited Partner other than in their capacities as Partners and the Capital Accounts or loans of the Partners shall not be affected in any way as a result of the making of any credits or payments hereunder.

(e) **Repurchase.** Notwithstanding anything contained herein to the contrary, in the event that (1) Construction Completion and placement in service of all buildings is not achieved on or before the date required under the Code to preserve the Tax Credits or, if earlier, the date required by the State Housing Finance Agency, (2) the Partnership does not achieve Qualified Occupancy on or before six (6) months following the Qualified Occupancy Date unless any payments required under *Section 5.10* are timely paid, (3) any acceleration of a Project Loan or the commencement of any action to foreclose any mortgage covering the Project or the exercise by any lender to the Project of any power of sale or similar remedy affecting the Project prior to receipt of the IRS Form(s) 8609 and such action is not stayed, terminated or withdrawn within 30 days or a binding agreement with the holder(s) thereof to effect the same entered into within such period, and any notice of acceleration of indebtedness waived or withdrawn, (4) the Project fails to satisfy the 50% Test as finally determined by the Accountant and approved by the Special Limited Partner or pursuant to an audit by the IRS shall have been financed with the proceeds of the Governmental Note, (5) the termination of the Freddie Mac Commitment prior to conversion of the Tax Exempt Loan unless a reasonable substitute commitment is obtained 30 days after such termination, (6) the Project is not eligible for at least 70% of the Projected Tax Credits, unless the Limited Partner elects instead to accept as cure the full satisfaction of all due Permanent Credit Shortfall Adjustments or the payment of all Credit Reduction Payments under *Section 5.10*, (7) the

Partnership does not receive the fully executed IRS Form(s) 8609 by the end of the first full tax year in compliance with the requirements of the Code and the State Housing Finance Agency, (8) the Partnership fails to comply with the “40-60 Set-Aside Test” of Code Section 42(g)(1)(B) or (9) prior to Stabilized Operations, the General Partner or Guarantor files for Bankruptcy, then, in any such event, upon the written request of the Limited Partner (the “Election Notice”), the General Partner shall purchase the Limited Partner’s and the Special Limited Partner’s interests in the Partnership for an amount equal to the sum of all Capital Contributions actually made to the Partnership by the Limited Partner and Special Limited Partner with interest at the rate of 12% per annum calculated from the date of such Capital Contributions, plus all expenses incurred by the Limited Partner and Special Limited Partner in connection with such repurchase, less the amount of any tax benefit (net of any tax costs, including but not limited to Tax Credit recapture and any Tax Credits claimed by the Limited Partner that may remain subject to potential recapture) or distribution (net of any tax costs) previously received or incurred by the Limited Partner. The General Partner or Guarantor shall pay such amount within 30 days after such written request. Upon receipt of an amount as calculated above, the Limited Partner’s interests as a Limited Partner in the Partnership shall terminate, the Limited Partner shall transfer its interest in the Partnership to the General Partner or its designee, and the General Partner shall indemnify and hold harmless the Limited Partner from and against any losses, damages and liabilities to which the Limited Partner (as a result of its participation hereunder) may be subject. Notwithstanding the foregoing, the Limited Partner’s rights under this *Section 5.10(e)* will expire upon payment of the Fifth Installment.

(f) **Investor Rights and Remedies.** Notwithstanding anything to the contrary herein and without otherwise limiting any remedies that may be available to the Limited Partner hereunder or at law or in equity, the Limited Partner agrees that (i) as long as the General Partner has fulfilled its obligations under this *Section 5.10(a), (b) and (c)*, the Limited Partner shall have no rights to recover additional amounts under this Agreement, to cause the General Partner to purchase its Interest under *Section 5.10(e)* or to exercise its rights to remove the General Partner set forth in *Section 9.6(i)* of this Agreement, due to a failure to receive the Projected Tax Credits, and (ii) if the General Partner has repurchased the Interest of the Limited Partner pursuant to the terms and conditions of *Section 5.10(e)*, the Limited Partner shall thereafter have no rights to payments under *Section 5.10(a), (b) and (c)* or to remove the General Partner as set forth in *Section 9.6(i)* of this Agreement. Further, if the Limited Partner removes the General Partner pursuant to the provisions of *Section 9.6(i)* of this Agreement, the Limited Partner agrees not to exercise its rights under *Section 5.10(e)* of this Agreement.

(g) **Survival.** The obligations of the General Partner and its Affiliates prescribed or described in this *Section 5.10* will survive subject to limitations on duration herein the termination and liquidation of the Partnership.

## **ARTICLE 6** **POWERS, RIGHTS AND DUTIES OF LIMITED PARTNERS**

**Section 6.1 Limitation of Liability.** Except as otherwise required under the Act (relating to a partner’s liability under certain circumstances to refund to the Partnership distributions of cash previously made to it as a return of capital), the Limited Partner and the

Special Limited Partner are not personally liable for any loss or liability of the Partnership beyond the amount of their applicable agreed-upon Capital Contributions.

**Section 6.2 No Participation in Management.** Except as otherwise expressly provided in this Partnership Agreement, the Limited Partner and the Special Limited Partner do not and shall not participate in the operation, management, or control of the Partnership's business, transact any business in the Partnership's name, or have any power to sign documents for or otherwise bind the Partnership.

## **ARTICLE 7** **ACCOUNTING AND FISCAL AFFAIRS**

**Section 7.1 Books of Account.** The General Partner shall keep proper books of account for the Partnership and shall elect the accrual method of accounting for federal tax purposes. The General Partner shall keep these books of account at the principal office of the Partnership and make them available at all times for examination and copying by the Special Limited Partner or its authorized representative. The General Partner shall retain such books of account for six years after the termination of the Partnership. All decisions as to the Fiscal Year and accounting methods to be used by the Partnership may be made only with the Consent of the Special Limited Partner.

All documents referenced in Article 7 or **Appendix X** are to be submitted to the Special Limited Partner and Integratec Services, LLC, the host and service provider of the Tax Credit Asset Management Software. Documents should be electronically submitted to crea@integratec.biz as they become due.

The General Partner shall retain all documentation with respect to initial qualification of the Project as a qualified Tax Credit project until the later of six years after completion of the Project's Compliance Period or as long as is required under applicable law. The General Partner shall retain such other documentation relating to the continuing Tax Credit qualification of the Project for at least six years, unless requested by the Special Limited Partner, the or required by applicable law to retain such documentation for a longer period. The General Partner shall retain copies of tax returns and reports for the Partnership for as long as required by applicable law.

After initial lease-up of the Project, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted an audit or review of the Partnership's compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. In addition, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted a site visit of the Project. The General Partner shall cooperate with any such audit by making appropriate personnel of the General Partner and Management Agent and all books and records of the Project and Partnership available to the Limited Partner or its representatives at the offices of the Partnership during regular business hours. The General Partner shall cooperate with any site visit by making appropriate personnel of the General Partner and Management Agent available to the Limited Partner or its representative at the Project site during regular business hours.

The General Partner acknowledges and agrees that it shall cooperate fully and in good faith, and shall instruct and cause the Management Agent to cooperate fully and in good faith, with the

Special Limited Partner with respect to their monitoring of the Partnership's operation of the Project Property, including the review of and compliance with Tax Credit related laws and regulations.

**Section 7.2 Reports.** The General Partner shall prepare and deliver to or shall cause to be prepared and delivered to the Special Limited Partner the reports set forth on **Appendix X** attached hereto and incorporated herein, and any other reports as may be reasonably requested by the Special Limited Partner.

**Section 7.3 Budgets and General Disclosure.**

The General Partner shall keep the Special Limited Partner informed concerning the general state of the business and financial condition of the Partnership and shall, upon the reasonable request of the Special Limited Partner, furnish to the Special Limited Partner full information, accounts, and documentation concerning the state of the business and financial condition of the Partnership.

(a) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the occurrence of such event:

(1) there is a material default by the Partnership under any loan, grant, subsidy, construction or property management documents or in payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt; and

(2) receipt of any notice of the IRS, State Housing Finance Agency, HUD or any other federal, state or local entity having jurisdiction over the Project involving the Partnership which notice could have a material, adverse effect upon the Partnership, the Project or the Limited Partner.

(b) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the end of any calendar quarter during which such event occurred:

(1) any reserve has been reduced or terminated by application of funds therein for purposes materially different from those for which such reserves was established;

(2) the General Partner has received any notice of a material fact which may substantially affect further distributions; and

(3) any Partner has pledged or collateralized its interest in the Partnership.

**Section 7.4 Failure to Provide Information.**

(a) Failure to provide reports within the time requirements set forth under this *Article* 7 or as set forth in **Appendix X** will result in a penalty of \$50 per report per day. The foregoing penalty shall begin accruing on the 10<sup>th</sup> day after the Special Limited Partner has delivered notice

to the General Partner of the reporting delinquency. Any resulting penalty shall be due and payable to the Special Limited Partner immediately upon demand. The Special Limited Partner may deliver notices electronically to the last known email address of a principal of the General Partner.

(b) If the General Partner fails to provide in a timely manner any information, reports or data required to be provided by the General Partner under this Article 7 or Appendix X, or otherwise fails to perform its obligations under this Article 7 or Appendix X, then, in addition to any remedies the Limited Partner may have under this Partnership Agreement or applicable law, the Partnership shall not make any distributions or payments to the General Partner pursuant to *Section 4.1* or *Section 4.2* until such time as such information, reports or data have been provided or such other obligations have been fulfilled.

(c) The Special Limited Partner has the right to require the General Partner to remove the Accountant and the right to approve a replacement accountant if the obligations and / or reporting requirements under *Article 7* or Appendix X are not being met.

## ARTICLE 8 TRANSFER OF LIMITED PARTNER'S PARTNERSHIP INTERESTS

### **Section 8.1**                    Voluntary Transfers.

(a) The Limited Partner may at any time make a Voluntary Transfer of all or any part of its Partnership Interests, so long as such Voluntary Transfer complies with the following conditions: (a) the General Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the transferor Limited Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (b) all requirements of applicable state and federal securities laws have been complied with; (c) such Voluntary Transfer will not result in the Partnership's loss of any exemption (federal or state) from the registration of the sale of securities relied upon in its offering of the Partnership Interests; (d) such Voluntary Transfer will not result in the Partnership being classified as an "association" which is taxable as a corporation for federal income tax purposes; (e) the Limited Partner reimburses the Partnership for any reasonable third-party costs and expenses incurred by the Partnership in connection with such Voluntary Transfer; and (f) such transfer is not made to any entity listed in the last sentence of *Section 5.3(d)*. Upon compliance with all of the conditions of this *Section 8.1(a)*, such Voluntary Transfer of the Limited Partner's Partnership Interests shall bind the Partnership and the General Partner, and no such transfer shall cause the dissolution and termination of the Partnership and the transferee shall automatically be deemed to be an Assignee with respect to such Partnership Interests. Notwithstanding the foregoing, the General Partner acknowledges that the Limited Partner may borrow funds to make its Capital Contribution payments and that the lender of such funds may require a security interest in the Limited Partner's interest. The General Partner's consent to such a security interest shall not be required.

(b) Notwithstanding the foregoing, any other provision of the Agreement: (1) the Limited Partner may pledge, without the consent of the General Partner or any other Person, its Partnership Interest to Fifth Third Bank as agent (together with its successors and/or assigns in such capacity, "FTB") to secure a loan to an affiliate of the Limited Partner, the proceeds of which

have been used by the Limited Partner to make its Capital Contribution to the Partnership (the “FTB Pledge”); (2) FTB shall have the rights of a secured party to retain, sell or transfer the Partnership Interest so pledged in accordance with the FTB Pledge; (3) FTB shall have the right to transfer or assign its rights hereunder and under the FTB Pledge without the consent of the General Partner or any other Person; (4) in the event of any enforcement of the FTB Pledge and the foreclosure upon or other disposition of the Partnership Interest, FTB (or its nominee, successor, transferee or assignee) shall be immediately, automatically and unconditionally admitted as a Substituted Limited Partner, subject only to its execution of an agreement to be bound by this Agreement; and, (5) so long as the FTB Pledge shall not have been released in accordance with its terms, (a) the Partnership Interests will not be, and will not become “investment property” or held in a “securities account” (within the meaning of the Uniform Commercial Code of the State (the “UCC”)) and will be, and will remain, “general intangibles” within the meaning of Article 9 of the UCC and (b) any action by any Partner to cause any of the Partnership Interests to be deemed to be or to be treated as a “security” or as “investment property” or to be held in a “securities account” within the meanings of Article 8 and Article 9, respectively, of the UCC, shall be void and of no effect. Further, the General Partner shall provide FTB with reasonable notice of and the right to cure, within a reasonable cure period, any default by the Limited Partner to make its Capital Contribution as described in *Section 2.2(b)*, and upon such cure, release any lien by the Partnership on the Limited Partner interest (if any) and consent to the transfer of such Limited Partner interest to FTB or such other entity as FTB may reasonably determine. FTB, as agent, is an intended third party beneficiary of this section.

## **Section 8.2 General Partner’s Consent to Substitution as a Limited Partner.**

(a) In addition to the requirements set forth in *Section 8.1*, an Assignee of a Limited Partner’s Partnership Interests shall not become a Substituted Limited Partner, unless and until the General Partner Consents to such substitution, which consent may not be unreasonably withheld, delayed or conditioned; provided that no such consent shall be required for the substitution of an Assignee that is an Affiliate of the Limited Partner or who is controlled by any such Affiliate, or to any other Person provided that CREA SLP, LLC remains the Special Limited Partner hereunder. The General Partner shall duly file for record any required amended certificate of limited partnership reflecting such substitution in such public offices as shall be required under the Act. The effective date of the substitution of the Assignee as a Substituted Limited Partner shall be the date on which the General Partner provides its consent, if required, or the date of the assignment to such Affiliated Assignee, as the case may be.

(b) If the General Partner’s consent is required but the General Partner does not consent to the substitution of an Assignee of the Limited Partner’s Partnership Interests, then the transferor Limited Partner retains all the rights of a transferor of a partnership interest under the Act and, except as otherwise provided in *Section 8.4*, the Assignee shall not be treated as owning any interest in the Partnership. In particular, an Assignee of the Limited Partner’s Partnership Interests who is not admitted as a Substituted Limited Partner under this *Section 8.2* shall not be entitled to: (1) require any accounting of the Partnership’s transactions; (2) inspect the Partnership’s books and records; (3) require any information from the Partnership; or (4) exercise any privilege or right of the Limited Partner that is not specifically granted to a nonsubstituted transfer of a partnership interest under the Act.

(c) The Partners hereby agree that upon the substitution of an Assignee of the Limited Partner's Partnership Interests, the transferor Limited Partner shall be released from any and all obligations and liabilities under this Partnership Agreement arising on or after the date of said substitution, provided that all Capital Contributions, whether or not due as of the date of such substitution, have been made by the Limited Partner.

**Section 8.3 Involuntary Transfers.** The Involuntary Transfer of all or any part of the Limited Partner's Partnership Interests shall not cause the dissolution and termination of the Partnership, but rather the business of the Partnership shall be continued without interruption in accordance with the provisions of this *Section 8.3*. Upon an Involuntary Transfer of all or any part of the Limited Partner's Partnership Interests, the Limited Partner's successor or legal representative shall automatically be deemed to be a Substituted Limited Partner.

**Section 8.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of the Limited Partner's Partnership Interests is recognized by the Partnership under this Article 8, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the General Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. All distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee.

**Section 8.5 Disposition of Project.**

(a) The General Partner shall not transfer, sell or otherwise dispose of the Project to any Person except in accordance with this *Section 8.5*. Commencing on January 1 of the year following the close of the Credit Period and ending two (2) years thereafter, the General Partner or its designated Affiliate shall have the right to purchase the Project Property exercisable with the Consent (not to be unreasonably withheld, delayed or conditioned) of and by written notice to the Special Limited Partner, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Project, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership and (D) Exit Taxes.

The foregoing option is contingent on the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned). When determining whether to grant its Consent, the Limited Partner will consider the following: (i) the financial position of the General Partner and the Guarantor provided; however, the financial position of the General Partner and Guarantor shall be deemed sufficient by the Limited Partner as long as the General Partner and Guarantor have, in the aggregate, a net worth of \$5,000,000 and a liquidity of \$1,000,000; (ii) whether the Project has achieved a 1.20 Debt Coverage Ratio over the 12 month period immediately preceding the exercise



of the option; (iii) the execution and delivery of an indemnification agreement from the General Partner and the Guarantor in form and content acceptable to the Limited Partner, with respect to Tax Credit recapture; (iv) whether there are any outstanding guarantee obligations; (v) whether there has been any material reduction in the cumulative tax benefits contained in the Financial Forecasts which would not be entirely offset by the proceeds to the Limited Partner from the exercise of this option; and (vi) whether any event of default exists or is anticipated under any of the Project Documents. Notwithstanding the foregoing, as an alternative to providing the information required in romanette (i), (ii), (iii), (iv), (v) or (vi) above, the General Partner and Guarantor may provide a commercially reasonable Tax Credit recapture insurance product reasonably acceptable to the Limited Partner, and the Limited Partner's acceptance of such a Tax Credit recapture product shall be the Consent of the Limited Partner to the option's exercise. Furthermore, if the Limited Partner provides its Consent and the General Partner exercises the foregoing option the General Partner will (A) provide annual certificates and other such documentation as the Limited Partner deems necessary or appropriate to ensure that the Project is in compliance with this Partnership Agreement and other Project Documents and (B) pay the annual Asset Management Fee until the end of the Compliance Period.

(b) Commencing on January 1 of the year following the close of the Compliance Period and ending two (2) years thereafter, the General Partner or its designated Affiliate shall have the right to purchase the Project Property exercisable by written notice to the Special Limited Partner, provided that the General Partner has not exercised its rights under *Section 8.5(a)*, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Project, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership and (D) Exit Taxes.

(c) The purchase of the Project Property shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

### **Section 8.6 Option to Acquire Limited Partner's and Special Limited Partner's Partnership Interests**

(a) The Limited Partner and the Special Limited Partner hereby grant to the General Partner or its designated Affiliate the option, commencing on January 1 of the year following the close of the Credit Period and ending two (2) years thereafter (the "Post-Credit Period Option Period"), with the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned), to purchase their respective interests in the Partnership (each, a "Partnership Interest") for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or

- (2) the sum of (a) any amounts owed to the applicable Limited Partner to repay any loan made by the Limited Partner to the Partnership, (b) the Credit Deficiency amount and (c) Exit Taxes.

The foregoing option is contingent on the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned). When determining whether to grant its Consent, the Limited Partner will consider the following: (i) the financial position of the General Partner and the Guarantor provided; however, the financial position of the General Partner and Guarantor shall be deemed sufficient by the Limited Partner as long as the General Partner and Guarantor have, in the aggregate, a net worth of \$5,000,000 and a liquidity of \$1,000,000; (ii) whether the Project has achieved a 1.20 Debt Coverage Ratio over the 12 month period immediately preceding the exercise of the option; (iii) the execution and delivery of an indemnification agreement from the General Partner and the Guarantor in form and content acceptable to the Limited Partner, with respect to Tax Credit recapture; (iv) whether there are any outstanding guarantee obligations; (v) whether there has been any material reduction in the cumulative tax benefits contained in the Financial Forecasts which would not be entirely offset by the proceeds to the Limited Partner from the exercise of this option; and (vi) whether any event of default exists or is anticipated under any of the Project Documents. Notwithstanding the foregoing, as an alternative to providing the information required in romanette (i), (ii), (iii), (iv), (v) or (vi) above, the General Partner and Guarantor may provide a commercially reasonable Tax Credit recapture insurance product reasonably acceptable to the Limited Partner, and the Limited Partner's acceptance of such a Tax Credit recapture product shall be the Consent of the Limited Partner to the option's exercise. Furthermore, if the Limited Partner provides its Consent and the General Partner exercises the foregoing option the General Partner will (A) provide annual certificates and other such documentation as the Limited Partner deems necessary or appropriate to ensure that the Project is in compliance with this Partnership Agreement and other Project Documents and (B) pay the annual Asset Management Fee until the end of the Compliance Period.

(b) Commencing on January 1 of the year following the close of the Compliance Period and ending two (2) years thereafter (the "Post-Compliance Period Option Period"), the General Partner or its designated Affiliate shall have the right to purchase the Partnership Interests exercisable by written notice to the Special Limited Partner, provided that the General Partner has not exercised its rights under *Section 8.6(a)*, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or
- (2) the sum of (a) any amounts owed to the applicable Limited Partner to repay any loan made by the Limited Partner to the Partnership, (b) the Credit Deficiency amount and (c) Exit Taxes.

(c) The foregoing option to acquire any additional Partnership Interest shall lapse if notice of exercise is not given during the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable, or closing does not occur within 180 days following the close of the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable. The purchase of any additional Partnership Interests shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

Notwithstanding anything in this *Section 8.6* to the contrary, the General Partner must concurrently acquire the Partnership Interests of the Limited Partner and the Special Limited Partner.

**Section 8.7 Put Option.** In any calendar year which is 180 days after the expiration of the Compliance Period, the Limited Partner may require that the Partnership purchase the Limited Partner's Interest and the Special Limited Partner's Interest, subject to all then existing liens and encumbrances to title, for an amount equal to the greater of (i) \$100 and (ii) the proceeds payable to the Limited Partner and the Special Limited Partner assuming the Property was worth its fair market value and all proceeds were distributed in accordance with *Section 4.2* (the "Put Option"). The Partners agree that the distribution of proceeds will not take into account the amount of the Limited Partner's Exit Taxes or Capital Account which would be required to be distributed if the Limited Partner was liquidated within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations. To exercise the Put Option, the Limited Partner must deliver to the General Partner an irrevocable written notice of such exercise. The purchase by the Partnership will be closed within 60 days after the later of (i) the Limited Partner's exercise of such right, or (ii) the receipt of all required consents, if any. Any conveyance from the Limited Partner and the Special Limited Partner to the Partnership under this *Section 8.7* will be made by quitclaim transfer, without representation or warranty of any kind by the Limited Partner or the Special Limited Partner except that the Limited Partner and the Special Limited Partner will represent that such Partner has not previously transferred its Interest and such Partner's Interest is free of liens or encumbrances other than those contemplated by the Partnership's Project Loans and/or by this Partnership Agreement (but in all events the transferred Interest shall be free of the FTB Pledge). The Limited Partner and the Special Limited Partner agree that the Partnership will have no liability for any costs, expenses, damages or fees to the Limited Partner or the Special Limited Partner as a result of the exercise of the Put Option, including, but not limited to, recapture or lost Tax Credits. Notwithstanding the foregoing, the indemnification and guaranty obligations hereunder and under the Guaranty Agreement shall not terminate as a result of the exercise of the Put Option and the General Partner shall continue to provide reports and information described herein from and after the exercise of the Put Option until the expiration of the Compliance Period.

## **ARTICLE 9**

### **TRANSFER OF GENERAL PARTNER'S PARTNERSHIP INTERESTS**

**Section 9.1 Voluntary Transfers.** The Partnership will not recognize any Voluntary Transfer of a General Partner's Partnership Interests and any such attempted Voluntary Transfer shall be invalid and ineffective as to the Partnership and the Limited Partner, unless and until: (a) the proposed transfer is of all the Partnership Interests owned by the General Partner; (b) the Special Limited Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the General Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (c) the General Partner has paid or caused to be paid all costs related to such Voluntary Transfer, including, without limitation, the reimbursement of all legal fees and expenses incurred by the Partnership in connection with such transfer; (d) such Voluntary Transfer will not result in the termination of the Partnership for Federal income tax purposes; (e) such Voluntary Transfer will

not result in the Partnership being classified as an “association” which is taxable as a corporation for Federal income tax purposes; (f) the Partnership receives an opinion of legal counsel to the effect of clause (e); (g) will not result in a loss of Tax Credits to the Limited Partner; and (h) the Special Limited Partner has consented in writing to such Voluntary Transfer, which consent shall not be unreasonably withheld, with the understanding that the Limited Partner has entered into this Partnership Agreement with the General Partner in reliance upon the unique knowledge, experience and expertise of the General Partner, its principals, officers, members, and affiliates in the planning and implementation of the Project and in the area of affordable housing and development in general. The foregoing restriction on transfer is based in part on the above factors.

Upon compliance with this *Section 9.1*, such transfer of the General Partner’s Partnership Interests shall bind the Partnership and the Limited Partner and no such Voluntary Transfer shall cause the termination of the Partnership. In addition, effective as of the date of full compliance with the requirements of this *Section 9.1*, the transferee of the General Partner’s Partnership Interests shall be admitted as a new General Partner of the Partnership and shall be vested with all the powers and obligations with respect to the management of the Partnership as are granted to and placed upon the transferor General Partner under this Partnership Agreement.

Each of the Limited Partner and the Special Limited Partner hereby acknowledges, agrees, and consents to (i) the General Partner’s signing, delivery, and performance of the foregoing Pledge and Security Agreement (General Partner) dated as of [\_\_\_\_\_] [\_\_\_], 2021 (the “GP Pledge Agreement”); (ii) the General Partner’s grant of a security interest to the Bridge Lender in its Partnership Interest and the other collateral described in the GP Pledge Agreement; and (iii) the Bridge Lender’s enforcement of all of its rights and remedies under the GP Pledge Agreement.

**Section 9.2 Involuntary Transfers.** An Involuntary Transfer of the General Partner’s Partnership Interests at such time as there is more than one General Partner shall not dissolve the Partnership, but rather the business of the Partnership shall be continued without interruption and all of the management powers and authority granted herein to the General Partner making such Involuntary Transfer shall automatically be placed upon the remaining General Partner(s), unless the Limited Partner otherwise elects within 30 days after the occurrence of such Involuntary Transfer to dissolve the Partnership and have the Partnership’s affairs and business wound up and terminated pursuant to Article 10. An Involuntary Transfer of the General Partner’s Partnership Interests when there is no other General Partner in existence will dissolve the Partnership and the Partnership’s affairs and business shall be wound up and terminated under Article 10, unless the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner pursuant to the provisions of *Section 9.3*.

**Section 9.3 Continuation of Partnership After Involuntary Transfer of General Partner’s Partnership Interests.** Upon an Involuntary Transfer of the last remaining General Partner’s Partnership Interests, the Partnership shall be dissolved and the affairs and business of the Partnership shall be wound up and terminated under Article 10, unless within 90 days after the occurrence of such Involuntary Transfer, the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner. Unless such an election is made within such 90-day period, the Partnership shall conduct only those activities that are necessary to wind up and terminate its affairs and business. If such an election is made within such 90-day period, then: (a) the reconstituted partnership shall continue until the end of the term

of the Partnership's existence set forth in this Partnership Agreement; and (b) immediately upon its receipt of cash in an amount equal to the then positive balance in its Capital Account (but not less than \$100), the former General Partner shall automatically (and without the need for the execution of any further documentation) be deemed to have relinquished its entire Partnership Interest, with such relinquished Partnership Interest being automatically allocated to the new General Partner.

**Section 9.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of a General Partner's Partnership Interests is recognized by the Partnership under this Article 9, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the Special Limited Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. Any distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee. Neither the Partnership, the Limited Partner nor the Special Limited Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this *Section 9.4*.

**Section 9.5 Voluntary Withdrawal.**

The General Partner shall not be permitted to withdraw from the Partnership without the Consent of the Limited Partner.

**Section 9.6 Removal of the General Partner.** The Special Limited Partner shall have the right to remove the General Partner for any of the following reasons:

- (a) any fraud, gross negligence or intentional misconduct of the General Partner; or
- (b) any act by the General Partner outside the scope of its duties or obligations under this Partnership Agreement or any breach by the General Partner of any fiduciary duty to the Partnership, the Special Limited Partner or the Limited Partner, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (c) the inaccuracy of any representation or warranty of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Section 5.3*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (d) the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Sections 5.3* and *5.4*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or

- (e) any action or inaction by the General Partner or any Affiliate of the General Partner that the Special Limited Partner reasonably determines has, or with the passage of time could, (i) cause the termination of the Partnership for federal income tax purposes (except to the extent such action is expressly authorized herein), (ii) cause the Partnership to be treated for federal tax purposes as an association taxable as a corporation, (iii) violate any federal or state securities laws, (iv) cause the Partnership to fail to qualify as a partnership under the Act, (v) cause the Limited Partner or the Special Limited Partner to be liable for Partnership obligations in excess of its Capital Contribution, (vi) qualify as an event of removal or withdrawal with respect to the General Partner under the Act, or (vii) otherwise substantially reduce tax benefits or substantially increase tax liabilities of the Limited Partner (unless the reduction of tax benefits or substantial increase in tax liabilities is addressed through payments to the Limited Partner under *Section 5.10*); or
- (f) any construction cost overruns or Operating Deficits are incurred by the Partnership and not funded to the extent required hereunder under this Partnership Agreement or the Guaranty Agreement; or
- (g) a default occurs under a Project Loan and such default is not cured or waived by the lender within any applicable cure period; or
- (h) any lender to the Partnership or other creditor of the Partnership files a foreclosure or other creditor's action for exercise of control over the Project or the rents therefrom, or the filing of a bankruptcy petition or similar creditor's action by or against the Partnership or the General Partner, which petition or similar action is not withdrawn, vacated or dismissed within 60 days after filing; or
- (i) the Partnership suffers a recapture of 30% or more of the Tax Credits and resulting adjusters are not paid to the Limited Partner in a timely manner in accordance with the terms and conditions of the Partnership Agreement; provided however that the payment of resulting adjusters may be used as a method for curing this reason for removal of the General Partner on only one occasion; or
- (j) the General Partner fails to timely and promptly discharge the Management Agent pursuant to *Section 9.7*; or
- (k) any payment is required to be made to the Limited Partner or the Partnership by the General Partner or the Guarantor under this Agreement, the Guaranty Agreement or the Development Agreement but is not timely made; or
- (l) the occurrence of an "Event of Default" under the Guaranty Agreement, taking into account any applicable cure periods; or
- (m) the General Partner allows a transfer of a controlling interest in itself, other than pursuant to *Section 5.3(e)*, or otherwise breaches the representations contained in *Section 5.3(e)* of this Partnership Agreement, without the Consent of the Special Limited Partner; or

- (n) the commencement by the General Partner of a case in bankruptcy or insolvency or for compromise, adjustment or other relief under the laws of the United States or of any state relating to the relief of debtors; or
- (o) the failure of the General Partner to obtain, within 60 days of service of summons upon the General Partner, the dismissal of any case commenced against the General Partner (i) for the appointment of a trustee for the General Partner, or any of its property or (ii) in bankruptcy or insolvency or for compromise adjustment or other relief under the laws of the United States or any state relating to the relief of debtors; or
- (p) failure by the General Partner to prepare or cause to be prepared properly and to deliver or cause to be delivered in its entirety any reporting required under this Agreement; or
- (q) [Intentionally deleted]; or
- (r) failure to operate the Project in accordance with the requirements of Section 42 of the Code and the Project Loans.

The removal of the General Partner shall be effective immediately upon the receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(a), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), or *(j)*, or if the Partnership files a bankruptcy or similar relief from creditors' action. The removal of the General Partner shall be effective 30 days after the General Partner's receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(b), (c), (d), (e), (f), (k), (l), (m), (n), (o), (p)* and *(r)* and the General Partner does not cure the default specified in such notice within such 30-day period; provided, however, that if a default cannot be reasonably cured within 30 days, the General Partner shall not be removed if the General Partner commences such cure within 30 days and proceeds in good faith to cure diligently thereafter, provided that the cure is completed within 60 days from the General Partner's receipt of written notice of such default (or such lesser period as is required to cure the default), and the failure to cure such default within a shorter time period does not have a material adverse effect on the Partnership, the Property, or the Limited Partner. For the purposes of determining the effect of the removal of the General Partner upon the Partnership and the General Partner's continuing interest in the Partnership, such removal shall be treated as an Involuntary Transfer of the General Partner's Partnership Interests pursuant to *Sections 9.2* and *9.3* hereof; provided, however, that notwithstanding such removal, the General Partner shall remain liable to the Partnership and the Limited Partner for (i) all obligations and liabilities (including, without limitation, its obligations to make any payments pursuant to *Sections 5.4(g), 5.4(i), 5.4(l), 5.4(n)* and *5.10* of this Partnership Agreement and liabilities resulting from any breach of any of the representations and warranties set forth in *Section 5.3* of this Partnership Agreement) incurred by it as the General Partner before the effective date of such removal but shall be free of any obligations and liabilities incurred on account of Partnership activities from and after the time of such removal and (ii) all damages and other amounts recoverable or payable hereunder or under

applicable law by or to the Partnership or the Limited Partner or the as a result of the occurrence of the event giving rise to such removal.

The General Partner hereby irrevocably appoints the Special Limited Partner and the Asset Manager as its attorney-in-fact to take all actions to effectuate the removal of the General Partner if the reason for such removal is a default under *Section 9.6(e), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), *(m), (n), (o)* or *(p)* and the designation of a replacement General Partner, which appointment is coupled with an interest and is irrevocable.

If the General Partner is removed as a Partner of the Partnership pursuant to this *Section 9.6*, the General Partner shall not be entitled to payment of any further installments of the Incentive Management Fee or Partnership Management Fee. Nothing in this paragraph shall limit or reduce the rights of the removed General Partner or any Affiliate thereof to receive any other fees for services previously performed or repayment of Operating Deficit Loans, if any, in accordance with the terms thereof; provided, however, the parties hereto agree that any cash distributions, fees, loans or other payments otherwise distributable or owed to the removed General Partner or its Affiliates (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan) shall, in the sole and absolute discretion of the substitute General Partner, be satisfied by applying all or any of such amounts to any unpaid obligation of the removed General Partner pursuant to this Agreement (including, without limitation, any obligations of the removed General Partner pursuant to *Sections 5.4(g), 5.4(i), 5.4(l)* and *5.10*). Notwithstanding the foregoing, if the General Partner is removed pursuant to *Section 9.6(a)*, the General Partner or its Affiliates will not be entitled to payment of any fees whether for services previously performed or for future services (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan).

**Section 9.7 Removal of Management Agent.** The Management Agent may not be removed or replaced without the Consent of the Special Limited Partner, and none of the services to be performed by the Management Agent under the Management Agreement may be assigned or subcontracted to third parties without the Consent of the Special Limited Partner. The General Partner shall, upon the written request of the Special Limited Partner, promptly remove the Management Agent. In addition, the General Partner shall cause every management agreement to contain a provision that either the Partnership or the Management Agent may terminate the management agreement with or without cause upon 30 days' written notice.

**Section 9.8 Security Interest.** In order to secure each and every obligation of the General Partner to the Partnership and the Limited Partner under this Partnership Agreement, the General Partner shall enter into a subordinate Security Agreement with the Partnership and the Limited Partner pursuant to which the General Partner shall pledge all of its right, title and interest in and to its interest in the Partnership to the Partnership and the Limited Partner.

## **ARTICLE 10** **DISSOLUTION, WINDING UP AND TERMINATION**

**Section 10.1 Dissolution.** The Partnership shall dissolve upon the occurrence of any of the following events:



- (a) The expiration of the term of the Partnership's existence;
- (b) The sale or other disposition of all or substantially all of the Partnership Property and the Partnership's receipt of all or substantially all of the proceeds therefrom;
- (c) The Partners' mutual election to dissolve the Partnership;
- (d) The failure of the Limited Partner to agree in writing at the time and in the manner provided in *Section 9.3* to the continuation of the business of the Partnership and the appointment of a new General Partner upon the occurrence of an Involuntary Transfer of the last remaining General Partner's Partnership Interests or the removal of the General Partner; or
- (e) The Limited Partner's election pursuant to *Section 9.2* to dissolve the Partnership upon the occurrence of an Involuntary Transfer of a General Partner's Partnership Interests, notwithstanding the fact that one or more other General Partners is in existence at such time.

**Section 10.2 Winding Up and Termination.** Upon the dissolution of the Partnership, the affairs and business of the Partnership will be wound up and terminated, the Partnership's liabilities shall be discharged and the Partnership Property shall be liquidated and distributed in the manner hereinafter described. A reasonable time shall be allowed for the orderly winding up of the affairs and business of the Partnership so as to enable the Partnership to minimize the normal losses attendant to the winding up and termination period. The winding up and termination of the affairs and business of the Partnership shall be supervised and conducted by the Liquidation Manager. The Liquidation Manager shall have the exclusive power and authority to act on behalf of the Partnership to wind up and terminate the affairs and business of the Partnership, to sell and convey the Partnership Property to such Persons (including, without limitation, any Partner or any Affiliate thereof) for such consideration and upon such terms and conditions as it deems necessary or appropriate, to discharge the Partnership's liabilities, to establish any reserves that it deems necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership, and to distribute the liquidation proceeds in the manner hereinafter described.

Upon completion of the winding up of the affairs and business of the Partnership, the liquidation proceeds shall be distributed by the Liquidation Manager in the following manner and order of priority:

- (a) First, such liquidation proceeds shall be applied to the payment of debts and liabilities of the Partnership (excluding any loans made by a Partner or an Affiliate of a Partner and any unpaid Developer Fee) and the payment of expenses of the winding up of the affairs and business of the Partnership;
- (b) Second, such liquidation proceeds shall be applied to the setting up of any reserves (to be held by the Liquidation Manager in an interest-bearing account) which the Liquidation Manager may deem necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership; *provided, however,* that at the expiration of such time as the Liquidation Manager deems necessary or appropriate, the balance of such reserves remaining after payment of such liabilities or obligations shall be distributed by the Liquidation Manager in the manner hereinafter set forth in this *Section 10.2*;

(c) Third, such liquidation proceeds shall be paid to satisfy debts and liabilities owed to Partners and their Affiliates described in *Section 4.2(a)* and in accordance with the priority set forth therein; and

(d) Fourth, such liquidation proceeds shall be distributed in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations to the Partners pro rata in accordance with their positive Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods, including, without limitation, the allocations to be made under *Section 3.2(m)* hereof.

**Section 10.3 Compliance with Liquidation Requirements of Regulations.** If the Partnership is “liquidated” within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, then:

(a) Distributions shall be made pursuant to *Section 10.2* (if such “liquidation” constitutes a dissolution and termination of the Partnership) to the Partners who have positive balances in their Capital Accounts in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations;

(b) If the General Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the General Partner shall contribute to the capital of the Partnership the amount necessary to restore the balance in its Capital Account to zero;

(c) If the Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the Limited Partner may contribute to the capital of the Partnership the lesser of (i) such deficit balance in its Capital Account or (ii) the limited dollar amount, if any, of its Capital Account deficit which the Limited Partner has expressly agreed in writing to restore to the capital of the Partnership pursuant to *Section 10.4*; and

(d) Any such contribution by a Partner shall be made on or before the later of (1) the end of the taxable year of the “liquidation” or (2) 90 days after the date of the “liquidation”.

Notwithstanding anything to the contrary contained in this *Section 10.3*, in the event the Partnership is “liquidated” within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, but such “liquidation” does not constitute a dissolution and termination of the Partnership pursuant to this Partnership Agreement, then no distributions shall be made pursuant to *Section 10.2*. Instead, the Partnership shall be deemed to have contributed the Partnership Property to a new “Partnership” (which shall be deemed to be the “Partnership” governed by this Partnership Agreement) in exchange for an interest in the new “Partnership” and, immediately thereafter, the Partnership liquidates by distributing interests in the new “Partnership” to the then Partners in proportion to their respective interests in the Partnership, followed by the continuation of the business by the new “Partnership.” The Capital Accounts of the then Partners of the Partnership shall be their Capital Accounts of the new “Partnership.”

**Section 10.4 Rights and Obligations of Limited Partner Upon Dissolution.** Except as otherwise expressly provided in *Section 10.3(b)*, the Limited Partner shall look solely to the assets

of the Partnership for the return of its Capital Contribution. Except as otherwise elected by the Limited Partner, pursuant to this *Section 10.4*, the Limited Partner shall not have any obligation to restore any deficit in its Capital Account upon the liquidation of the Partnership. Notwithstanding anything to the contrary contained in this Partnership Agreement, the Limited Partner may from time to time elect to be obligated to restore a deficit in its Capital Account up to a limited dollar amount. Such election shall be made by the Limited Partner's delivery of a written notice of election to the General Partner no later than December 31 of the taxable year for which such election is to be effective and shall specify the dollar amount of the deficit in its Capital Account that the Limited Partner agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Limited Partner's Partnership Interests.

**Section 10.5 Waiver of Partition.** Each Partner hereby waives any right to partition or cause a partition of the Partnership Property.

**Section 10.6 Final Accounting.** The Liquidation Manager shall furnish each of the Partners with a final accounting and a statement setting forth the assets and liabilities of the Partnership as of the date of the completion of the winding up and termination of the affairs and business of the Partnership. Upon completion of the distribution plan set forth in this Article 10, the Liquidation Manager shall cause to be executed by the appropriate parties and filed in such public offices as shall be required under the Act a cancellation of the articles of organization of the Partnership and any and all other documents which the Liquidation Manager deems necessary or appropriate to effect the dissolution and termination of the Partnership.

## **ARTICLE 11** **MISCELLANEOUS**

**Section 11.1 Notices and Addresses.** All notices, consents, demands, requests, or other communications which may or are required to be given hereunder shall be in writing and shall be sent by email, overnight courier or United States mail, registered or certified, return receipt requested, postage prepaid to the Partnership at the address of the Partnership's principal office and to the Partners at the addresses set forth after their respective names in Article 1. The Partnership and any Partner may change its or his address for the giving of notices, consents, demands, requests, or other communications by delivering written notice to the Partnership and to all the Partners of its or his new address for such purpose. Notices, consents, demands, requests, or other communications shall be deemed given or served on the day when sent by email, one Business Day after deposit with an overnight courier or three Business Days after deposit in the United States mail.

**Section 11.2 Pronouns and Plurals.** All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

**Section 11.3 Counterparts; Electronic or Facsimile Transmission of Signature.** This Partnership Agreement may be executed in several counterparts all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart. This Partnership Agreement may be executed using Electronic Signatures and delivered via .pdf and shall be considered an original, and shall have the same legal effect,

validity and enforceability as a paper record. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of manually signed paper documents which has been converted into electronic form (such as scanned into .pdf format), or an electronically signed documents converted into another format, for transmission, delivery and/or retention.

**Section 11.4 Applicable Law.** This Partnership Agreement and the rights of the Partners hereunder shall be interpreted in accordance with the laws of the Commonwealth of Virginia.

**Section 11.5 Successors.** This Partnership Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.

**Section 11.6 Severability.** The invalidity or unenforceability of any provision of this Partnership Agreement in a particular respect shall not affect the validity and enforceability of any other provisions of this Partnership Agreement or of the same provision in any other respect.

**Section 11.7 Exhibits.** All exhibits or appendices attached hereto or referred to herein are incorporated herein by this reference.

**Section 11.8 Limitation of Benefits.** It is the explicit intention of the Partners that no person or entity other than the Partners and the Partnership is or shall be entitled to bring any action or enforce any provision of this Partnership Agreement against any Partner or the Partnership, and that the covenant, undertakings and agreements set forth in this Partnership Agreement shall be solely for the benefit of and shall be enforceable only by the Partners and the Partnership (and theirs or its respective successors and assigns as permitted hereunder).

**Section 11.9 Entire Agreement.** This Partnership Agreement contains the entire agreement among the Partners with respect to the transactions contemplated herein and supersedes all prior or written agreements, commitments, or understandings with respect to the matters provided for herein and therein.

**Section 11.10 Broker's Commission and Indemnity.** Each of the parties to this Partnership Agreement warrants and represents to the others that it has not been introduced to the other party by any broker, nor has it been in contact with any real estate or business broker or consultant otherwise than as specified in this Partnership Agreement regarding the Project Property; and each party to this Partnership Agreement agrees to indemnify and hold the other party harmless from all suits, claims, actions, loss or expenses (including reasonable attorney's fees) arising from the claim of any person to a brokerage or other commission in connection with this transaction and resulting from contact with or other action, alleged or actual, of the indemnifying party.

**Section 11.11 Amendment of Partnership Agreement.** Except as otherwise provided for herein, this Partnership Agreement may not be amended in whole or in part except by a written instrument signed by the General Partner, the Limited Partner and the Special Limited Partner.

**Section 11.12 Signage.** The General Partner shall cause the name of the Limited Partner and the Special Limited Partner and the logo of the Limited Partner and the Special Limited Partner

(the forms of which shall be provided to the General Partner) to be prominently displayed on all construction site signage for the Project. The Special Limited Partner, in its discretion and subject to reasonable local regulations and proper safety and construction concerns and needs, may install a construction sign on the Project at its own cost and expense.

**Section 11.13 No Third Party Beneficiary.** No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party until such Capital Contribution is made or loan is advanced nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

**Section 11.14 Waivers.** Any forbearance by the Limited Partner in exercising any right or remedy under this Partnership Agreement, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy, or the subsequent exercise of any right or remedy. The enforcement by the Limited Partner of any right herein shall not constitute an election by the Limited Partner of remedies so as to preclude the exercise of any other right available to the Limited Partner.

**Section 11.15 Single Purpose Entity.** Notwithstanding anything to the contrary contained herein, for so long as Funding Lender is the holder of the Governmental Note (the “**Indebtedness**”), in the event of any conflict between the provisions contained in this Section 11.15 and the other provisions of this Partnership Agreement, the provisions of this Section 11.15 shall control and govern. All capitalized terms used in this Section 11.15 shall have the meaning ascribed to them in the Continuing Covenant Agreement by and between Partnership and the Freddie Mac Seller/Servicer, as amended from time to time (the “**Continuing Covenant Agreement**”). Until the Indebtedness is paid in full, the Partnership will remain a “single purpose entity” which means that, at all times since its formation and thereafter, it will satisfy each of the following conditions:

- (i) It will not engage in any business or activity, other than the ownership, operation and maintenance of the Mortgaged Property and activities incidental thereto.
- (ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Mortgaged Property and such Personalty as may be necessary for the operation of the Mortgaged Property and will conduct and operate its business as presently conducted and operated.

- (iii) It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.
- (iv) It will not merge or consolidate with any other Person.
- (v) It will not take any action to dissolve, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; to change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfers permitted under the Continuing Covenant Agreement; issue additional partnership, membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.
- (vi) It will not, without the prior unanimous written consent of all of Borrower's partners, members, or shareholders, as applicable, and, if applicable, the prior unanimous written consent of 100% of the members of the board of directors or of the board of Managers of Borrower or the SPE Equity Owner, take any of the following actions:
  - (A) File any insolvency, or reorganization case or proceeding, to institute proceedings to have Borrower or any SPE Equity Owner be adjudicated bankrupt or insolvent.
  - (B) Institute proceedings under any applicable insolvency law.
  - (C) Seek any relief under any law relating to relief from debts or the protection of debtors.
  - (D) Consent to the filing or institution of bankruptcy or insolvency proceedings against Borrower or any SPE Equity Owner.
  - (E) File a petition seeking, or consent to, reorganization or relief with respect to Borrower or any SPE Equity Owner under any applicable federal or state law relating to bankruptcy or insolvency.
  - (F) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for Borrower or a substantial part of its property or for any SPE Equity Owner or a substantial part of its property.
  - (G) Make any assignment for the benefit of creditors of Borrower or any SPE Equity Owner.
  - (H) Admit in writing Borrower's or any SPE Equity Owner's inability to pay its debts generally as they become due.

- (I) Take action in furtherance of any of the foregoing.
- (vii) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in Section 6.13 of the Continuing Covenant Agreement.
- (viii) It will not own any subsidiary or make any investment in, any other Person.
- (ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
- (x) It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the following:
  - (A) The Indebtedness and any Supplemental Loans.
  - (B) Customary unsecured trade payables incurred in the ordinary course of owning and operating the Mortgaged Property provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date incurred.
- (xi) It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that Borrower's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation will be made on such consolidated financial statements to indicate the separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person and (B) such assets will also be listed on Borrower's own separate balance sheet.
- (xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Borrower or any Guarantor, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.
- (xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.

- (xiv) It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the Project Note) the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.
- (xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Financing Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).
- (xvi) It will file its own tax returns separate from those of any other Person, except to the extent that Borrower is treated as a “disregarded entity” for tax purposes and is not required to file tax returns under applicable law, and will pay any taxes required to be paid under applicable law.
- (xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person.
- (xviii) It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and will pay its debts and liabilities from its own assets as the same become due.
- (xix) It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.
- (xx) It will pay (or cause the Property Manager to pay on behalf of Borrower from Borrower’s funds) its own liabilities (including salaries of its own employees) from its own funds.
- (xxi) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.
- (xxii) Except as contemplated or permitted by the property management agreement with respect to the Property Manager, it will not permit any Affiliate or constituent party independent access to its bank accounts.
- (xxiii) It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds.



- (xxiv) If such entity is a single member limited liability company, such entity will satisfy each of the following conditions:
- (A) Be formed and organized under Delaware law.
  - (B) Have either one springing member that is a corporation or two springing members who are natural persons. If there is more than one springing member, only one springing member will be the sole member of Borrower or SPE Equity Owner (as applicable) at any one time, and the second springing member will become the sole member only upon the first springing member ceasing to be a member.
  - (C) Otherwise comply with all Rating Agencies' criteria for single member limited liability companies (including the delivery of Delaware single member limited liability company opinions acceptable in all respects to Funding Lender).
  - (D) At all times Borrower or SPE Equity Owner (as applicable) will have one and only one member.
- (xxv) If such entity is a single member limited liability company that is board-managed, such entity will have a board of Managers separate from that of Guarantor and any other Person and will cause its board of Managers to keep minutes of board meetings and actions and observe all other Delaware limited liability company required formalities.
- (xxvi) If an SPE Equity Owner is required pursuant to the Continuing Covenant Agreement, if Borrower is (A) a limited liability company with more than one member, then Borrower has and will have at least one member that is an SPE Equity Owner that has satisfied and will satisfy the requirements of Section 6.13(b) of the Continuing Covenant Agreement and such member is its managing member, or (B) a limited partnership, then all of its general partners are SPE Equity Owners that have satisfied and will satisfy the requirements set forth in Section 6.13(b) of the Continuing Covenant Agreement.

*[Remainder of this page intentionally left blank]*

The Partners have executed this Partnership Agreement as of the date first set forth at the beginning hereof.

**GENERAL PARTNER:**

PETERSBURG EAST HOUSING MANAGEMENT,  
LLC, a Virginia limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Sole Member and  
Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

**LIMITED PARTNER:**

CREA PETERSBURG EAST I AND II, LLC, a  
Delaware limited liability company

By: \_\_\_\_\_  
Bradley J. Bullock, Senior Vice President

**SPECIAL LIMITED PARTNER:**

CREA SLP, LLC, an Indiana limited liability  
company

By: \_\_\_\_\_  
Bradley J. Bullock, Senior Vice President

The Withdrawing Limited Partner hereby withdraws from the Partnership:

**WITHDRAWING LIMITED PARTNER:**

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Stephen R. Whyte, an individual

**APPENDIX I**  
**DEFINITIONS**

The capitalized words and phrases used in the Partnership Agreement shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of such words and phrases):

“50% Test” means receipt by the Special Limited Partner of evidence satisfactory to the Special Limited Partner demonstrating that the Partnership has met the “50% test” as set forth in Section 42(h)(4)(B) of the Code with respect to the Project.

“60% Construction Completion” means when sixty percent (60%) of the rehabilitation of the Project is completed in accordance with the Plans and Specifications as evidenced by the Application and Certification for Payment on AIA Documents G702 and G703 which are approved by the Special Limited Partner.

“Accountant” means initially Propp Christensen Caniglia LLP or such certified public accountant as is selected by the General Partner with the Consent of the Special Limited Partner; *provided, however*, that the General Partner shall not need to obtain the Special Limited Partner’s Consent if the General Partner selects a “Big 4” accounting firm as the Accountant.

“Act” means the Revised Uniform Limited Partnership Act of the State of Formation, as may be amended from time to time during the term of the Partnership.

“Actual Tax Credits” means the Tax Credits to which the Limited Partner is actually entitled pursuant to Section 42 of the Code.

“Adjusted Capital Account Deficit” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account as of the end of the relevant Fiscal Year after giving effect to the following adjustments: (a) the credit to such Capital Account of any amounts which such Partner is obligated to restore under this Partnership Agreement or is deemed to be obligated to restore pursuant to either (i) the penultimate sentences of Treas. Reg. Section 1.704-2(g)(1) and Treas. Reg. Section 1.704-2(i)(5), or (ii) amounts that the Partner is treated as obligated to restore under Treas. Reg. Section 1.704-1(b)(2)(ii)(c); and (b) the debit to such Capital Account of the amounts described in Treas. Reg. Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treas. Reg. Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Administrative Adjustment Request” means an administrative adjustment request under Section 6227 of the Code.

“Affiliate” means, with respect to any Person: (a) any Person directly or indirectly controlling, controlled by or under common control with such Person; (b) any Person owning or controlling 10% or more of the outstanding voting securities of such Person; (c) any officer, director or general partner of such Person; or (d) any Person who is an officer, director, general partner, trustee or holder of 10% or more of the voting securities of any Person described in clauses (a) through (c) of this subparagraph.

“After-Tax Basis” means, with respect to any payment to be received by the Limited Partner, the amount of such initial payment supplemented by a further payment or payments so that, after deducting from such payments the amount of all income taxes imposed on the members of the Limited Partner by any governmental authority with respect to such payments, the remaining balance of such payments shall be equal to the amount of the initial payment. For purposes of the calculation under this definition, it will be assumed that the federal and state taxes are payable at the actual marginal federal and state income tax rates.

“Applicable Federal Rate” means the minimum interest rate that can be charged without attribution of interest under Code Section 1274(d).

“Applicable Percentage” means the percentages specified in *Section 5.3(ee)*.

“Architect” means Dyke Nelson Architecture, a [\_\_\_\_\_].

“Asset Management Fee” means an annual fee equal to \$16,800 per year, earned on an annual basis, beginning on the date that the full amount of the First Installment of the Capital Contribution has been contributed (with a pro-rata share of such fee earned for any partial calendar year) and increasing annually at a rate of 3.0%. The Asset Management Fee is not covered by the Operating Deficit Guaranty and shall be payable only out of available Cash Flow and Net Cash from Sales and Refinancings as provided in *Sections 4.1* and *4.2* and shall accrue, without interest, until there is sufficient cash available to pay any accrued Asset Management Fee as set forth in *Sections 4.1* and *4.2*.

“Asset Manager” means CREA, LLC, an Indiana limited liability company, or its designee.

“Assignee” means a Person to whom all or any part of the Limited Partner’s Partnership Interest has been transferred in a manner permitted under this Partnership Agreement, but who has not been admitted to the Partnership as a Substituted Limited Partner with respect to the transferred Partnership Interest.

“Authority” or “Authorities” means any nation or government, any state or other political subdivision thereof, and any entity exercising its executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including but not limited to, any federal, state or municipal department, commission, board, bureau, agency, court, tribunal or instrumentality.

“Bankruptcy” or “Bankrupt” as to any Person means the filing of a petition for relief as to any such Person as debtor or bankrupt under the Bankruptcy Act of 1898 or the Bankruptcy Code of 1978 or like provision of law (except if such petition is contested by such Person and has been dismissed within 60 days); insolvency of such Person as finally determined by a court proceeding; filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of his assets; commencement of any proceedings relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereinafter in effect, either by such Person or by another, provided that if such proceeding is commenced by another, such Person indicates his approval of such proceeding, consents thereto or acquiesces

therein, or such proceeding is contested by such Person and has not been finally dismissed within 60 days.

“Bridge Lender” means [the Freddie Mac Seller/Servicer].

“Bridge Loan” means the loan described as such in Appendix IV, based on loan documents acceptable to the Special Limited Partner.

“Bridge Loan Documents” means the loan documents evidencing the Bridge Loan. The Special Limited Partner has approved the Bridge Loan Documents delivered to it in connection the closing of the Bridge Loan on the date hereof.

“Building Permits” means all permits required by the relevant Authority to construct the Project.

“Business Day” means a day during which commercial banks in Indianapolis, Indiana are open for business of the nature required for the implementation or administration of this Agreement.

“Capital Account” means, with respect to any Partner, the capital account maintained for such Partner pursuant to *Section 2.5*.

“Capital Contribution” means, with respect to any Partner, the amount of money and the fair market value of property contributed to the Partnership by such Partner.

“Capital Transaction” means any transaction the proceeds of which are not includable in determining Cash Flow, including without limitation the sale, refinancing or other disposition of all or substantially all of the assets of the Partnership, but excluding loans to the Partnership (other than a refinancing of any Project Loan) and contributions of capital to the Partnership by the Partners.

“Cash Flow” means the excess of Cash Receipts over Operating Expenses. Cash Flow shall be determined separately for each Fiscal Year or portion thereof.

“Cash Receipts” means all cash receipts of the Partnership from whatever source derived other than from a Capital Transaction, including, without limitation, rental revenues and government subsidy payments. In addition, any amount released without restriction from any escrow or reserve account in a Fiscal Year (including, without limitation, the Operating Reserve and the Replacement Reserve) shall be considered a cash receipt of the Partnership for such Fiscal Year. Notwithstanding the foregoing, at the election of the General Partner, Cash Receipts received near the end of a Fiscal Year and intended for use in meeting the Partnership’s obligations (including the cost of acquiring assets or paying debts or expenses) in the subsequent Fiscal Year shall not be deemed to be received until such following Fiscal Year.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.

“Certificate” has the meaning set forth in the Recitals.

“Code” means the Internal Revenue Code of 1986, as the same may be amended from time to time (or any corresponding provisions of any successor law).

“Compliance Failure” means the failure of the Project to qualify as a low income Project within the meaning of Section 42(g) of the Code or the failure of any unit in the Project to qualify as a low income unit within the meaning of Section 42(g) of the Code due to the action or inaction of the General Partner and/or the Management Agent. Compliance Failure shall not include foreclosure.

“Compliance Period” means, with respect to the Project Property, the 15-year compliance period specified in Section 42(i)(1) of the Code.

“Consent” means the prior written consent or approval of the party for which consent is sought, which consent, unless otherwise specifically provided herein, may be given or withheld in such party’s sole discretion.

“Construction Completion” means completion of the Project free and clear of all mechanics’ and similar liens (except for liens which have been bonded over or insured over up to \$100,000), in accordance with the Plans and Specifications and in accordance with the terms, conditions and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property together with receipt of copies of the Building Permits signed by the relevant local authorities (to evidence satisfactory inspection and approval of the rehabilitation of the Project and permanent certificates of occupancy) and satisfactory resolution of each action item referenced in the Environmental Clearance Letter.

“Construction Completion Date” means December 1, 2022.

“Construction Contract” means the construction contract in the guaranteed maximum amount of \$[**TBD**] (including all exhibits and attachments thereto) to be entered into between the Partnership and the General Contractor, pursuant to which the Project Property is to be rehabilitated. Such Construction Contract, and any amendments thereto, shall be subject to the Consent of the Special Limited Partner, which, except for future amendments, shall be deemed approved as of the date hereof.

“Cost Certification” means the certified audit prepared by the Accountants, reasonably approved by the Limited Partner and submitted to the State Housing Finance Agency, itemizing the Partnership’s development and related costs for purposes of establishing the amount of Tax Credits available to the Project.

“Cost Savings” means (i) a permanent reduction in Development Costs from that set forth in the Financial Forecasts without an offsetting reduction in Capital Contributions or proceeds of Project Loans or (ii) a permanent increase in development sources from those set forth in the Financial Forecasts without an offsetting increase in Development Costs. The determination of Cost Savings is subject to the Consent of the Special Limited Partner and shall be released concurrently with the funding of the Fourth Installment. If any Cost Savings are realized they shall be applied in the following order: (i) a reduction in the deferred Developer Fee, (ii) a reduction in the Tax Exempt Loan amount, but in no event shall the Tax Exempt Loan be reduced by such



amount that the Project does not satisfy the “50% test” under Code Section 42(h)(4)(B), (iii) to capital improvements reasonably acceptable to the Special Limited Partner, and (iv) the balance, if any, shall be distributed in accordance with *Section 4.1*.

“Cost Segregation Study” means the cost segregation study for the 5- and 15- year property associated with the acquisition and rehabilitation of the Project, which has been approved by the Accountants and the Limited Partner.

“Credit Deficiency” means the Projected Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to *Section 5.10(a) or (b)*) less the aggregate amount of Actual Tax Credits received by the Limited Partner which shall be computed no sooner than at the end of the Compliance Period, less the amount of any Credit Reduction Payment made pursuant to *Section 5.10(c)(I)*. For purposes hereof, the Limited Partner shall be considered to have received Tax Credits in the amount allocated to the Limited Partner on the Partnership’s federal income tax returns reduced by (a) any adjustment of the Partnership’s tax return that is made or claimed by the IRS, except to the extent that such adjustment or claimed adjustment is rejected or overturned by the IRS or a court and the order of such court is beyond the time for appeal; and (b) the amount of any recapture or claimed recapture of such Credits (other than recapture caused by the action of the Limited Partner and not including recapture which is rejected by the IRS or a court). The Credit Deficiency shall be calculated on an After-Tax Basis.

“Credit Period” means, with respect to any building the period described in Code Sections 42(f)(1) and (2), which generally is the period of ten (10) taxable years beginning with (a) the taxable year in which the building is Placed in Service or (b) at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building (as defined in the Code) as of the close of the first year of such period. Special rules apply to the determination of the Credit Period for multiple building Projects and the Credit Period may include the eleventh (11th) year of such period as provided in Code Section 42(f)(2).

“Credit Reduction Payment” has the meaning attributed thereto in *Section 5.10(c)* of this Partnership Agreement.

“Credit Shortfall” has the meaning attributed thereto in *Section 5.10(c)*.

“Debt Coverage Ratio” means the ratio of (i) Cash Receipts (excluding releases of reserves) less Operating Expenses (but for purposes of this definition, Operating Expenses shall not include any payment of principal and interest on any Partnership indebtedness) to (ii) principal and interest payments due and payable with respect to the Tax Exempt Loan, but excluding loans to the Partnership from the General Partner or the Developer.

“Debt Coverage Ratio Requirement” means a Debt Coverage Ratio of at least 1.15:1.00 at Stabilized Operations and 1.10:1.00 throughout the Compliance Period.

“Debt Service Reserve” means that certain reserve which may be established by the General Partner at the time of Stabilized Operations.

“Debt Service Reserve Account” means a segregated Partnership bank account established at a financial institution selected by the Special Limited Partner.

“Deferred Development Fee Note” means the Promissory Note from the Partnership to the Developer attached as Exhibit A to the Development Agreement.

“Developer” means Vitus Development IV, LLC, a Delaware limited liability company.

“Developer Fee” means in the aggregate \$3,143,624 but not to exceed the maximum amount allowed by the State Housing Finance Agency (plus certain cost savings realized by the Partnership, as described in the Development Agreement) payable at the times and upon the conditions set forth in the Development Agreement.

“Development Agreement” means the Development Agreement to be entered into by the Partnership and the Developer pursuant to which the Developer shall assume primary responsibility for overseeing the development of the Project Property and bearing certain cost overruns.

“Development Costs” has the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Development Deficit Loans” have the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Disposition Fee” means the amount equal to 6% of the Project’s sale price less any brokerage fees paid to any other Person.

“Economic Risk of Loss” has the meaning specified in Treas. Reg. Section 1.752-2.

“Election Notice” has the meaning set forth in *Section 5.10(e)*.

“Electronic Signature” means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

“Eligible Basis” means, generally, the adjusted basis of a building for depreciation purposes determined as of the close of the first taxable year of the Credit Period, subject to certain exclusions as set forth in the Code.

“Environmental Clearance Letter” means the letter issued by [\_\_\_\_\_] on [\_\_\_\_\_] , 2021 with respect to the Project, attached hereto as **Appendix XI**.

“Environmental Laws” means all federal, state and local worker safety, environmental, land use, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environmental or human health and safety, or governing the use storage, treatment, generation, transportation, processing, handling, production, remediation, abatement, purchase, sale or disposal of Hazardous Substance and the written rules, regulations, policies, guidelines, interpretations, decisions, orders and directive of federal, state and local government agencies and authorities relating to the environment or worker safety, which include, but are not

limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.) (“CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et. seq.) (“RCRA”), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et. seq.) (“TSCA”), the Hazardous Materials Transportation Act, as amended, (39 U.S.C. Section 1801 et. seq.), the Occupational Health and Safety Act (29 U.S.C. Section 651 et. seq.), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.) or any other applicable laws and regulations adopted and promulgated thereunder that protect the environment or human health and safety.

“Exit Taxes” means an amount equal to the amount of any federal, state or local income tax liability which would be imposed upon the Limited Partner as a result of the deficit balance in the Limited Partner’s Capital Account, assuming that the Limited Partner is subject to the highest marginal federal, state and local income tax rates.

“Fair Market Value” means the fair market value as determined by a M.A.I. appraiser selected by the General Partner. The costs of determining the Fair Market Value shall be paid for by the Partnership.

Notwithstanding the foregoing, for purposes of determining the Fair Market Value the following shall apply:

- (i) The General Partner shall select a third-party M.A.I. appraiser with at least five (5) years of relevant experience and licensed to do business in the state where the Project Property is located.
- (ii) The appraiser may, in its professional judgment, consider that it is the intention of the parties that the Partnership continue to own the Project throughout the term of the Restrictive Covenant and for so long thereafter as the General Partner determines.
- (iii) The appraiser may, in its professional judgment, use the discounted cash flow method of the income approach to value the net cash flows projected to be distributed to the Limited Partner and the Special Limited Partner including the cash proceeds the Limited Partner and the Special Limited Partner would receive if the property were sold at the end of a typical holding period, as determined by the appraiser, to be consistent with standard valuation methodology (“Net Cash Flows”).
- (iv) The appraisal may assume the deed and tax credit restrictions remain in place for the period of time as specified in the Restrictive Covenant and the appraiser may, in its professional judgment, apply the then appropriate discount rate to the Net Cash Flows taking into consideration all relevant factors including any (1) restrictions contained in the Partnership Agreement, (2) limitations on distributions of economic benefits and other restrictions contained in any regulatory agreement, and (3) limitations on use, occupancy, rent and other restrictions contained in any Restrictive Covenant.

- (v) The appraiser may, in its professional judgment, (1) determine if the resulting present value of the Partnership Interests (the “Present Value”) should be reduced due to a minority interest/lack of control discount, and whether to apply a discount factor that is consistent with then market conditions; and (2) then determine if the Present Value should be further reduced due to a lack of marketability discount that is consistent with then market conditions, and whether to apply a discount factor that is consistent with then market conditions.

“Fifth Installment” has the meaning set forth in **Appendix VIII** hereof.

“Final Determination” means the earliest to occur of (i) the date on which a decision, judgment, decree or other order has been issued by any court of competent jurisdiction, which decision, judgment, decree or other order has become final (i.e., all allowable appeals requested by the parties to the action have been exhausted), (ii) the date on which the IRS has entered into a binding agreement with the Partnership with respect to such issue or on which the IRS has reached a final administrative determination with respect to such issue which, whether by law or agreement, is not subject to appeal, (iii) the date on which the time for instituting a claim for refund has expired, or if a claim was filed the time for instituting suit with respect thereto has expired, or (iv) the date on which the applicable statute of limitations for raising an issue regarding a federal income tax matter with respect to the Partnership has expired.

“Final Partnership Adjustment” means a notice from the IRS of a final partnership adjustment under Section 6231 of the Code.

“Financial Forecasts” means the Financial Forecasts attached hereto as **Appendix II**.

“First Installment” has the meaning set forth in **Appendix VIII** hereof.

“Fiscal Agent” means [\_\_\_\_\_].

“Fiscal Year” means the 12-month period which begins on the first day of January and ends on the 31<sup>st</sup> day of December of each calendar year (or ends on the date of final dissolution for the year in which the Partnership is wound up or dissolved).

“Fourth Installment” has the meaning set forth in **Appendix VIII** hereof.

“Freddie Mac” means Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States, and its successors and assigns.

“Freddie Mac Commitment” means the commitment entered into between Freddie Mac and the Freddie Mac Seller/Servicer dated [\_\_\_\_\_], 2021.

“Freddie Mac Purchase Date” means the date upon which Freddie Mac purchases the funding loan from the Freddie Mac Seller/Servicer in accordance with the terms and conditions set forth in Freddie Mac Commitment. Freddie Mac has committed to purchase the funding loan from the Freddie Mac Seller/Servicer on or before [\_\_\_\_\_] upon satisfaction of conditions set forth in the Freddie Mac Commitment.

“Freddie Mac Seller/Servicer” means Berkadia Commercial Mortgage, LLC, a Delaware limited liability company.

“Fund” means an assignee of the Limited Partner’s Partnership Interest where the general partner or managing member of the assignee is an Affiliate of the Limited Partner or Special Limited Partner, which Fund shall not include as a member or manager any Person listed in the last sentence of *Section 5.3(d)*, or an affiliate thereof, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Person listed in the last sentence of *Section 5.3(d)*.

“Funding Lender” means, initially, the Freddie Mac Seller/Servicer and, from and after the Freddie Mac Purchase Date, Freddie Mac.

“General Contractor” means MSI Construction, a [\_\_\_\_\_], or such other general contractor as Consented to by the Special Limited Partner.

“General Partner” means collectively Petersburg East Housing Management, LLC, a Virginia limited liability company, or any other Person who becomes a successor General Partner pursuant to *Section 9.1* or *Section 9.3*.

“Governmental Lender” means the Petersburg Housing and Redevelopment Authority.

“Governmental Note” means the [\_\_\_\_\_] Housing Development Revenue Note (Petersburg East I & II Project) 2021 Series [\_\_\_\_\_] in the amount of \$[**TBD**].

“Guarantor” means Vitus Group, LLC, a Delaware limited liability company.

“Guaranty Agreement” means the Guaranty Agreement to be entered into between the Partnership and the Guarantor for the benefit of the Limited Partner.

“HAP Contract” means the Project-based Section 8 Housing Assistance Payments Renewal Contract entered into between [\_\_\_\_\_] and the Partnership pursuant to which rental subsidies under Section 8 of the United States Housing Act of 1937 will be provided to all of the LIHTC Units at the Project. The term of the HAP Contract will commence [\_\_\_\_\_] 1, 2021 and will run for a period of 20 years.

“Hazardous Substance” means, without limitation, any combustible substances, ignitable substances, flammable substances, corrosive substances, reactive substances, explosives, radon, radioactive materials, asbestos, lead-based paint, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum-based products, methane, and hazardous materials, hazardous chemicals, hazardous wastes, hazardous or toxic substances or related materials, including those as so defined in or regulated by Environmental Laws.

“HUD” means the United States Department of Housing and Urban Development.

“Imputed Underpayment” shall have the meaning assigned to such term in Section 6225 of the Code.

“In Balance” means, during the construction period, and in the Limited Partner’s reasonable discretion, the then undisbursed portion of the Capital Contributions to be disbursed in accordance with this Agreement during the construction period, plus the undisbursed proceeds of construction period financing, plus Cash Flow available to pay Development Costs as set forth in the Financial Forecasts, any payment made by the General Partner pursuant to *Section 5.4(g)*, or other construction period financing, equals or exceeds the amount necessary to pay all work done and not theretofore paid for or to be done in connection with the completion of the rehabilitation of the Project in accordance with the Plans and Specifications or otherwise to be incurred in connection with completion of the Project. After Construction Completion, “In Balance” means, in the Limited Partner’s reasonable discretion, the then undisbursed portion of the permanent sources contained in the Financial Forecasts equals or exceeds the remaining costs of the Project, including repayment of any construction loans.

“Incentive Leasing Fee” means the non-cumulative fee payable by the Partnership to the General Partner in accordance with the terms and conditions set forth in *Section 5.5(c)*.

“Incentive Leasing Agreement” means the Incentive Leasing Agreement of even date herewith between the Partnership and the General Partner pursuant to which the General Partner is to provide certain supplemental services with respect to the Project.

“Incentive Management Agreement” means the Incentive Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Incentive Management Fee.

“Incentive Management Fee” means the payment made by the Partnership to the General Partner in accordance with the Incentive Management Agreement and in the priority specified in *Section 4.1(a)* hereof.

“Involuntary Event” means, with respect to any Partner any one of the following events: (a) the making of an assignment for the benefit of creditors by the Partner; (b) the filing of a voluntary petition in bankruptcy by the Partner; (c) the adjudication of the Partner as a bankrupt or insolvent; (d) the filing of a petition or answer by the Partner seeking for himself a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule; (e) the seeking, consenting to or acquiescence of the Partner in the appointment of a trustee, receiver, or liquidator of the Partner or of all or any substantial part of the Partner’s properties; (f) the death of any Partner who is a natural person; or (g) the termination of the legal existence of any Partner who is other than a natural person.

“Involuntary Transfer” means any transfer of any Partner’s Partnership Interests effected by operation of law as a result of the occurrence of an Involuntary Event.

“IRS” means the Internal Revenue Service.

“Land” means the tract of land currently owned by the Partnership upon which the Project Property is located, as more particularly described on Appendix V attached hereto.

“LIHTC Units” means the 168 low income housing units located in the Project.

“Limited Partner” means CREA Petersburg East I and II, LLC, a Delaware limited liability company, or any other Person who becomes a Substituted Limited Partner for any such Person pursuant to *Section 8.1* or *Section 8.2*. The term Limited Partner shall not refer to the Special Limited Partner.

“Liquidation Manager” means any Person selected by the Limited Partner.

“Management Agent” means ARCO Management Corp., a New York corporation, or such other management agent that is selected by the General Partner with the Consent of the Special Limited Partner. The Management Agent shall act as property manager for the Project pursuant to a management agreement approved in writing by the Asset Manager.

“Management Agreement” means the management contract or agreement by and between the Partnership and the Management Agent, which has received all Requisite Approvals.

“Management Fee” means the fee payable to the Management Agent, which fee shall not exceed [3.92]% of gross collections or such lesser amount required by the State Housing Finance Agency or HUD and no other fees for leasing, accounting or other services shall be paid to the Management Agent without the Consent of the Special Limited Partner. The General Partner shall cause any management agreement between the Partnership and a Management Agent that is Affiliated with the General Partner, Developer, or Guarantor to contain a provision that allows for the deferral of the Management Fee to the payment of any Operating Deficits (the “Deferred Management Fee”). Any portion of the Deferred Management Fee shall accrue without interest and shall be repaid in accordance with *Section 4.1* and *4.2* herein.

“Net Cash from Sales and Refinancings” means, with respect to any Fiscal Year of the Partnership, the cash proceeds from Partnership sales or refinancings reduced by (a) all reasonable costs and expenses incurred by the Partnership in connection with such sale or refinancing, including prepayment fees, and (b) all principal and interest payments and other sums paid on or with respect to any indebtedness of the Partnership other than the Deferred Development Fee Note and amounts treated as loans pursuant to this Partnership Agreement from the General Partner, Developer or Guarantor or any of their respective Affiliates or the Limited Partner. Net Cash from Sales and Refinancing shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with the sale or other disposition of Project Property.

“Nonrecourse Deduction” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations. The amount of Nonrecourse Deductions for any Fiscal Year of the Partnership equals the excess, if any, of the net increase, if any, in the amount of Partnership Minimum Gain during that Fiscal Year reduced (but not below zero) by the aggregate amount of any distributions during that Fiscal Year of proceeds of a Nonrecourse Liability that are allocable to an increase in Partnership Minimum Gain, determined in accordance with Section 1.704-2(c) of the Regulations.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“Operating Deficit” means the amount by which Cash Receipts (other than proceeds of any loans to the Partnership and investment earnings on funds on deposit in the reserve fund for

replacements and other such reserve or escrow funds or accounts) for a particular period of time (which shall be measured on a monthly basis and funded as necessary during the Operating Deficit Guaranty Period) is exceeded by the sum of all Operating Expenses, including, required deposits into the reserve fund for replacements and reserve accounts, any fees to lenders and/or any applicable mortgage insurance premium payments and all other Partnership obligations or expenditures, excluding payments for construction of the Project, payment of the Asset Management Fee and all other fees payable out of Cash Flow, and fees and other expenses and obligations of the Partnership to be paid from the Capital Contributions of the Limited Partner to the Partnership pursuant to this Partnership Agreement, during the same period of time.

“Operating Deficit Guaranty Period” means the period beginning on Stabilized Operations and ending on the fifth (5<sup>th</sup>) anniversary of the date of Stabilized Operations; *provided, however*, the expiration of the Operating Deficit Guaranty Period shall be conditioned upon (i) funding of the Operating Reserve to the Operating Reserve Amount less any reduction pursuant to *Section 5.4(h)(1)*, (ii) achievement of at least a 1.15 to 1.00 Debt Coverage Ratio for the preceding twelve (12) month period (measured in the aggregate) and projection of the achievement of a 1.10 to 1.00 Debt Coverage Ratio for the balance of the Compliance Period and (iii) the HAP Contract remains in effect.

“Operating Deficit Loans” has the meaning set forth in *Section 5.4(i)* hereof.

“Operating Expenses” means all costs and expenses of any type, properly accruable during a specified Fiscal Year which may be properly charged as operating expenses incidental to the ownership and operating of the Project under standard accounting procedures, including, without limitation, payment of principal and interest on any Partnership indebtedness (other than payments of principal and interest on any loan made pursuant to *Sections 2.6, 5.4(i)* and *5.4(l)* or any Project Loans made to the Partnership the debt service on which is payable solely from Cash Flow or any unpaid Developer Fee), including replacement reserves, the cost of repairs to the Project, amounts allocated to reserves by the General Partner and the payment of any fees other than the Asset Management Fee, the Incentive Management Fee and the Developer Fee. The term Operating Expenses shall not include Development Costs. Operating Expenses payable to Partners or Affiliates of Partners shall be paid after Operating Expenses payable to third parties.

“Operating Reserve” means the reserve amount of \$977,200 to be funded out of the proceeds of the [Fifth] Installment and other available Project funds at the time of the funding of the [Fifth] Installment, and thereafter, out of Cash Flow pursuant to *Section 4.1(a)* hereof, plus interest earned thereon, which reserve shall be held for working capital and operating purposes and contingencies, excluding project repairs and replacements which are to be covered by the Replacement Reserve. No portion of the Operating Reserve will be pledged as collateral for the Project Loans.

“Operating Reserve Account” means the segregated Partnership bank account, established to hold the Operating Reserve, to be established at a financial institution selected at the sole discretion of the Limited Partner; withdrawals from such Operating Reserve Account shall require the signature of the Special Limited Partner.

“Operating Reserve Amount” means \$977,200.



“Opt-Out Election” means action by the Partnership Representative that causes the Partnership to elect out of the Revised Partnership Audit Rules, if such election is available to the Partnership under Section 6221(b) of the Code and Regulations or other guidance issued by the IRS.

“Partner” or “Partners” means, individually or collectively as the context requires, the General Partner, the Limited Partner and/or the Special Limited Partner.

“Partner Minimum Gain” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i) of the Regulations.

“Partner Nonrecourse Debt” has the meaning set forth in Section 1.704-2(b)(4) of the Regulations.

“Partner Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(i)(2) of the Regulations. The amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Fiscal Year equals the net increase during that Fiscal Year in Partner Nonrecourse Debt reduced (but not below zero) by the proceeds of the Partner Nonrecourse Debt distributed during that Fiscal Year to the Partner bearing the Economic Risk of Loss for the Partner Nonrecourse Debt that are both attributable to the Partner Nonrecourse Debt and allocable to an increase in Partner Minimum Gain, as determined in accordance with Section 1.704-2(i)(2) of the Regulations.

“Partnership” means Petersburg East Housing Partners, LP, a Virginia limited partnership.

“Partnership Agreement” or “Agreement” means the Partnership’s Amended and Restated Agreement of Limited Partnership, as the same may be amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto” and “hereunder” refer to this Partnership Agreement as a whole, unless the context otherwise requires.

“Partnership Interest” means the entire ownership interest of a Partner, including, without limitation, the rights and obligations of such Partner under this Partnership Agreement and the Act.

“Partnership Management Agreement” means the Partnership Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Partnership Management Fee.

“Partnership Management Fee” means the fee payable to the General Partner equal to an annual amount of \$[33,600], increasing at 3.0% per annum, payable in accordance with the Partnership Management Agreement and *Section 4.1(a)* and *Section 4.2*.

“Partnership Minimum Gain” has the meaning set forth in Section 1.704-2(d) of the Regulations.

“Partnership Property” means all real and personal property acquired by the Partnership and any improvements thereto, and shall include both tangible and intangible property.

“Partnership Representative” has the meaning ascribed in *Section 5.4(d)*.

“Payment Certificate” means a Payment Certificate executed by the General Partner pursuant to which the Capital Contributions will be disbursed.

“Permanent Credit Shortfall” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Credit Shortfall Adjustment” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Loan Shortfall” and “Permanent Loan Shortfall Note” have the meanings set forth in *Section 5.4(l)* hereof.

“Person” means any individual, partnership, corporation, trust or other entity.

“Placed in Service” means, with respect to each building in the Project, (i) when a building in the Project is first placed in a condition or state of readiness and is available for occupancy as evidenced by a certificate of occupancy for at least one unit in each building in the Project or (ii) such date elected by or on behalf of the Partnership, which date may not be earlier than the last day of the month during which the minimum rehabilitation expenditure amount set forth in Code Section 42(e)(3)(A) has been incurred by the Partnership with respect to such building; *provided, however,* that if such certificate or permit is of a temporary nature, the “Placed in Service” shall not be deemed to have occurred unless (x) tenants are permitted to occupy the unit(s) to which such temporary certificate or permit applies, or (y) if applicable, the work remaining to be done is of a nature which would not impair the permanent occupancy of such unit. Notwithstanding the foregoing, a building shall not be deemed to have been Placed in Service if the Project is not placed in service as provided by the Code and IRS guidance.

“Plans and Specifications” mean the plans and specifications for the Project approved by the Special Limited Partner.

“Prime Rate” means the interest rate announced from time to time by the Wall Street Journal, expressed as a per cent per annum. The “Prime Rate” shall be determined on a daily basis.

“Profits” and “Losses” mean, for each Fiscal Year of the Partnership, an amount equal to the Partnership’s taxable income or loss for such period from all sources, determined in accordance with Section 703(a) of the Code, adjusted in the following manner: (a) the income of the Partnership that is exempt from federal income tax shall be added to such taxable income or loss; (b) any expenditures of the Partnership which are not deductible in computing its taxable income and not properly chargeable to capital account under either Section 705(a)(2)(B) of the Code or the Regulations promulgated under Section 704(b) of the Code shall be subtracted from such taxable income or loss; (c) in the event any Project Property is revalued in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations, then the amount of any adjustment to the value of such Property shall be taken into account as gain or loss from the disposition of such Project Property for purposes of computing Profits or Losses; (d) gain or loss resulting from any disposition of Project Property which has been revalued pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations and with respect to which gain or loss is recognized for Federal income tax purposes shall be computed by reference to the adjusted value of such Project Property, notwithstanding

that the adjusted tax basis of such Project Property differs from the adjusted value; and (e) any depreciation, amortization or other cost recovery deductions taken into account in computing such taxable income or loss shall be recomputed based upon the adjusted value of any Project Property which has been revalued in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

“Project Documents” means and includes this Partnership Agreement (and all exhibits hereto), the Construction Contract, the Plans and Specifications, Restrictive Covenant, Management Agreement, the HAP Contract and all instruments delivered to (or required by) the Limited Partner, Project Lenders or the State Housing Finance Agency to the extent not otherwise listed in this definition.

“Project Lender” means the lenders of the Project Loans as set forth in **Appendix IV**.

“Project Loans” means those loans set forth and described on **Appendix IV** hereto the terms of which shall not be modified or amended without the Consent of the Special Limited Partner.

“Projected Tax Credits” means the 30% present value tax credits from the State Housing Finance Agency in an amount equal to \$1,296,247 for years 2022 through year 2031 (the foregoing amounts represent 99.989% of the total Tax Credits projected for the Partnership). The Projected Tax Credits shall be deemed amended and revised to reflect the Projected Tax Credits calculated in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* and *Section 5.10(b)* of this Partnership Agreement.

“Project Property” or “Project” means the Land currently owned by the Partnership in Petersburg, Virginia, and the 168-unit multifamily rental housing development for individuals and families and other improvements to be rehabilitated, owned and operated thereon by the Partnership, and known as Petersburg East I and II.

“Push-Out Election” means an election by the Partnership Representative under Section 6226 of the Code with respect to any Imputed Underpayment(s) identified in a Final Partnership Adjustment for the Partnership.

“Qualified Basis” has the meaning set forth in Section 42(c) of the Code.

“Qualified Occupancy” means initial occupancy of 100% of the LIHTC Units (or 95% of the LIHTC Units provided all applicable Permanent Credit Shortfall Adjustments or Credit Reduction Payments are made) by tenants whose occupancy and leases (including specified rents) qualify such residential units for the Tax Credit. The achievement of Qualified Occupancy shall be confirmed by the Management Agent and certified by the General Partner.

“Qualified Occupancy Date” means January 1, 2022.

“REAC” shall refer to the Real Estate Assessment Center of HUD.

“Recapture Event” means an event, as evidenced by a determination thereof by the Accountants or as a result of a Final Determination, which results in a recapture with respect to all

or any portion of the Partnership's Tax Credits and/or which results in a disallowance of any Tax Credits previously claimed by the partnership.

“Regulations” means the Federal Income Tax Regulations (including without limitation, Temporary Regulations) promulgated under the Code, as the same may be amended from time to time (including corresponding provisions of successor regulations).

“Replacement Reserve” means the greater of (i) the amount required by the Project Lenders to be reserved by the Partnership, and (ii) \$350 per unit per year, increasing by 3% per year, plus all interest earned on any such amount, funded ratably on a monthly basis, with credit given for any amount funded into any lender controlled replacement reserve, commencing upon the achievement of Stabilized Operations. On the sixth and eleventh anniversary of the completion of construction of the Project, the Special Limited Partner shall have the right to require a physical assessment of the Project Property pursuant to which the amount reserved on a monthly basis may be increased.

“Replacement Reserve Account” means a segregated Partnership bank account established at a bank selected by the Limited Partner to hold the Replacement Reserve, unless required to be held by the Funding Lender.

“Requisite Approvals” means any required approvals of each Lender and Agency to an action proposed to be taken by the Partnership.

“Restrictive Covenant” means the extended low-income housing commitment entered into between the Partnership and the State Housing Finance Agency pursuant to Section 42(h)(6) of the Code.

“Revised Partnership Audit Procedures” means the revised partnership audit rules contained in Subchapter 63C of the Code, as amended by the Bipartisan Budget Act of 2015, P.L. 114-74 and the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, and the Regulations promulgated thereunder.

“Second Installment” has the meaning set forth in Appendix VIII hereof.

“Security Agreement” means that certain Security Agreement to be entered into by and among the General Partner, the Partnership and the Limited Partner.

“Seller” means Heritage Realty, LLC, a New York limited liability company.

“Special Limited Partner” means CREA SLP, LLC, an Indiana limited liability company.

“Specified Expense Line Items” means the actual and substantiated expenses of the Project for property taxes, insurance and utilities. For purposes of real estate taxes, the amount shall be based on the full assessment of the Project following Construction Completion, less any applicable tax abatement.

“Stabilized Operations” means the date upon the latest to occur of (i) Qualified Occupancy by tenants actually paying rents at monthly rates at least equal to 90% of those assumed in the

Financial Forecasts for a period of three consecutive months, with the aggregate amount of rents at least equal to 90% of the aggregate rents assumed in the Financial Forecast, (ii) achievement of the Debt Coverage Ratio Requirement for three consecutive months assuming aggregated annualized expenses, and (iii) all conditions in the Tax Exempt Loan definition have been satisfied, and (iv) repayment in full of the Bridge Loan.

“Stabilized Operations Date” shall mean April 1, 2023.

“State Designation” means, with respect to the Project Property, collectively, the written determinations received from the State Housing Finance Agency and the Governmental Lender under Sections 42(m)(1)(D) and (m)(2)(D) of the Code in the annual amount of \$[TBD] of Tax Credits for the Project Property’s ten-year Credit Period.

“State Housing Finance Agency” means the agency controlling the designation of Low Income Housing Tax Credits and administering the Tax Credits, acting through any authorized representative.

“Substituted Limited Partner” means a Person who is admitted as Limited Partner to the Partnership pursuant to *Section 8.1* or *Section 8.2* in place of and with all the rights of a limited partner under the Partnership Agreement and the Act.

“Tax Credit” or “Credit” means the low income housing tax credit under Section 42 of the Code allocated pursuant to the State Designation.

“Tax Exempt Loan” means those loan(s) described as such in Appendix IV, with terms no less favorable than those set forth in Appendix IV and loan documents acceptable to the Special Limited Partner. The Project shall satisfy the Debt Coverage Ratio Requirement over a consecutive 90-day period using: (i) the annualized aggregate substantiated Cash Receipts of the Project at the time (excluding tenant based rental subsidies in excess of current asking rents and adjusted for the vacancy rate assumed in the Financial Forecasts if such rate is greater than the actual vacancy rate) and (ii) annualized aggregate Operating Expenses (excluding any payment of principal and interest on any Partnership indebtedness) which shall reflect the Specified Expense Line Items and, for all other Operating Expenses, the greater of the Special Limited Partner’s projected expenses included in the Financial Forecasts and the actual substantiated expenses of the Project at the time. Further, if at the time of the calculation of the Debt Coverage Ratio in the immediately preceding sentence, the Debt Coverage Ratio is less than the Debt Coverage Ratio Requirement, the General Partner shall be permitted to establish a Debt Service Reserve to account for the decrease in the Debt Coverage Ratio. Pursuant to the Financial Forecasts attached hereto, the maximum principal amount of the Tax Exempt Loan is \$17,310,000.

“Tax Exempt Loan Documents” means the loan documents evidencing the Tax Exempt Loan acceptable to the Special Limited Partner.

“Third Installment” has the meaning set forth in Appendix VIII.

“Timing Reduction” means the return of Capital Contributions of the Limited Partner designed to compensate the Limited Partner for the reduced present value of delayed Tax Credits.

“Title Company” means Chicago Title Insurance Company.

“Upward Adjuster Cap” means ten percent (10%) of the Limited Partner’s total Capital Contributions before taking into account the adjustments pursuant to *Section 5.10(a)(2)*, unless otherwise agreed to by the Special Limited Partner.

“Voluntary Transfer” means any sale, assignment, transfer, pledge, or hypothecation of any Partnership Interests by a Partner, except for an Involuntary Transfer.

“Withdrawing Limited Partner” means Stephen R. Whyte, an individual.

**APPENDIX II**

**Financial Forecasts**

*[attached behind]*

### APPENDIX III

The following provisions shall be applicable to a purchase of the Project Property by the General Partner or its designee pursuant to *Section 8.5* or *Section 8.6* (“Purchaser”):

**Section 1. Purchase Price.** The purchase price shall be payable in full at the closing by wire transfer or certified or cashier’s check or, with any required consents of mortgage holders, by the Purchaser assuming the liabilities secured by mortgages and other liens on the Project Property and paying the balance of the purchase price, if any, in cash, wire transfer or by certified or cashier’s check at the closing.

**Section 2. Property Purchased.** The property (“Premises”) to be transferred to Purchaser shall include the following:

(a) The land upon which the Project Property is situated and all buildings, structures, improvements, fixtures and appurtenances located on or related to the land and buildings (collectively, “Real Property”).

(b) All tangible and intangible (other than cash balances and receivables) personal property (“Personal Property”) affixed to or used in connection with the Project Property and which are owned by the Partnership and used in connection with the operation and maintenance of the Project Property.

(c) All tenant leases, along with all tenant security deposits then held by or for the Partnership (and Purchaser shall accept the assignment of the tenant leases and tenant security deposits and shall assume the leases and landlord’s obligations thereunder). No adjustment on the Purchase Price shall be made in the event of any shortage in the tenant security deposit amounts.

**Section 3. Survey.** Purchaser shall be responsible for obtaining and paying for any evidence of title (title search, title commitment, etc.) and survey desired by Purchaser.

**Section 4. Taxes and Assessments; Prorations; Adjustments.**

(a) Partnership shall also credit on the purchase price all unpaid real estate taxes and special assessments not yet due for the years prior to the closing and a portion of such taxes and special assessments for the year of closing prorated through the date of closing. The proration of the special assessments and undetermined real estate taxes shall be based upon a 365-day year and on the most recently available assessment information and tax rate and valuation.

(b) Partnership shall pay for or arrange with Purchaser for billing and service cut-offs (or credit against the purchase price) of water, sewer, street cleaning and any other charges accrued through the day of closing and utilities which are not payable by tenants of the Project Property.

(c) All rents payable by the tenants of the Project Property shall be prorated through the date of closing and the purchase price shall be adjusted accordingly. All advance rents and security deposits paid by such tenants shall be credited against the purchase price.



(d) Purchaser agrees to use its best efforts to collect on behalf of Partnership any tenant rents that were due prior to the month of closing and, if Purchaser receives any such rents, deliver the same to Partnership.

(e) The following adjustments shall also be made on the basis of a 365 day year or 30 day calendar month as appropriate and as of the day of closing: (i) amounts paid or due or owing under any contracts or agreements relating to the operation or maintenance of the Project Property. All amounts that are owed by Partnership for the period prior to the month of closing under any item set forth in this paragraph shall be paid by Partnership.

(f) Partnership shall be obligated to and shall deliver only those tenant security deposits and other tenant funds held by or for Partnership at closing that were received by Partnership.

(g) Replacement reserves and other reserves or cash accounts maintained by the Partnership shall be transferred to the Purchaser, if required by a lender or other third party controlling the account and the Purchase Price payable by Purchaser shall be correspondingly increased.

(h) The adjustments and prorations described in this Section 4 shall increase or decrease the amount due (but not below the liabilities secured by liens on the Project Property) from the Purchaser at closing. The provisions of this Section 4 shall survive the closing.

**Section 5. Transfer of Real Property.** Partnership shall convey and transfer merchantable title to the Real Property by a recordable Limited Warranty Deed. Purchaser shall cause, at Partnership's cost, the Limited Warranty Deed to contain all necessary state, county and city approvals. Purchaser shall pay transfer fees and taxes associated with the conveyance of the Real Property to Purchaser.

**Section 6. Personal Property.** The Personal Property shall be conveyed by a special warranty bill of sale to Purchaser at closing.

**Section 7. As Is Condition.** The Premises shall be conveyed at closing in an "as is" condition. No express or implied warranties are given or made with respect to the condition of the same and Purchaser shall acknowledge that it is its obligation to inspect the Premises and accept the same in its "as is" condition at closing. No express or implied warranties are or will be given or made by Partnership.

**Section 8. Condemnation, Casualty.**

(a) Condemnation. Purchaser shall not be obligated to perform under *Sections 8.5 or 8.6* (as the case may be) of the Partnership Agreement if on the closing date any portion of the Real Property has been condemned or sold under threat of condemnation, or is the subject of a condemnation proceeding, in which event this Partnership Agreement shall terminate unless Purchaser elects to close. If Purchaser so elects to close, it shall be entitled to receive any condemnation proceeds payable with respect to the Real Property or Personal Property to Partnership.

(b) Casualty.

(i) Purchaser shall not be obligated to perform under its purchase obligation if on or before the closing date any portion of the Real Property has been damaged by fire, storm, flood or other casualty, the damage of which is in excess of \$1,000,000. In the case of such damage in an amount less than \$1,000,000, or if Purchaser elects not to terminate its purchase obligation in the event of such damage in an amount in excess of \$1,000,000, Purchaser shall be entitled to the proceeds of the insurance policy payable as a result of such damage and Purchaser's purchase obligation shall remain in full force and effect without any purchase price adjustment.

(ii) If the amount of such damage is in excess of \$1,000,000, Purchaser may elect by written notice to the Limited Partner, given no later than 30 days after receipt of Purchaser's notice of the casualty, not to terminate its purchase obligation.

**Section 9. Closing; Possession.**

(a) As used in this Appendix, references to "a closing," the "closing" or "day of closing" shall mean a closing of the purchase and sale contemplated by *Sections 8.5 or 8.6*, as the case may be, of the Partnership Agreement and this Addendum. Purchaser shall be entitled to possession of the Premises on the day of closing, subject to rights of tenants.

(b) Unless the Purchaser's election to purchase is terminated pursuant to the provisions hereof, the closing shall occur within 30 Business Days after the determination of the purchase price, with all prorations and adjustments made as of the date of closing. The closing shall be at a place and time in the county and state where the Real Property is located as designated by the General Partner.

**Section 10. Partnership to Retain Receivables.** Purchaser shall agree that Partnership shall retain all of the rights to any and all receivables and claims for recovery related to any transaction or matter prior to the date of closing. Purchaser shall cooperate, at no cost to Purchaser, in the collection of any such receivable or the prosecution of any such claim and, if collection thereof is received by Purchaser, the proceeds thereof will be promptly remitted to Partnership.

**Section 11. Subordination to Tax Exempt Loan.** The option to purchase the Project pursuant to Section 8.5 will be subject and subordinate in all respect to the terms and conditions of the Tax Exempt Loan encumbering the Project including (a) the lien, security interest and rights granted by the loan documents evidencing the Tax Exempt Loan, (b) all advances or charges made or accruing under or secured by the loan documents evidencing the Tax Exempt Loan and (c) any extensions, modifications or renewals of the indebtedness secured by the loan documents evidencing the Tax Exempt Loan.

## APPENDIX IV

### Loan Terms Summary

- A. \$[TBD] “**Tax Exempt Loan**” from the Governmental Lender
1. Type of Loan: Permanent
  2. Amount: \$[TBD] being paid down to \$17,310,000 at Stabilized Operations
  3. Lender: Governmental Lender from funding loan made by Funding Lender evidenced by the Governmental Note
  4. Interest Rate: Construction period: [TBD]%  
Permanent period: [TBD]%
  5. Payments: Construction period: monthly payments of interest  
Permanent period: equal monthly payments of principal and interest with a balloon payment upon maturity
  6. Minimum Amortization Period: [420] months during the permanent period
  7. Maturity Date: [TBD]
  8. Priority Position: First
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: At closing
- B. \$[TBD] “**Bridge Loan**” from the Bridge Lender
1. Type of Loan: Construction
  2. Amount: \$[TBD]
  3. Lender: Bridge Lender
  4. Variable Interest Rate: [TBD]%
  5. Payments: Monthly payments of interest with a balloon payment upon maturity
  6. Minimum Amortization Period: N/A
  7. Maturity Date: [TBD]
  8. Priority Position: Second
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: At closing

**APPENDIX V**

**Legal Description of the Land**

[TO BE INSERTED]

**APPENDIX VI**

**Insurance Requirements**

The following are construction and permanent insurance requirements. This outline describes the minimum types and amounts of insurance that are satisfactory to CREA, LLC, its affiliates, and/or its assigns. *Special Limited Partner reserves the right to modify the insurance requirements as conditions warrant with written notice to the General Partner.*

**Carrier Requirement**

- All carriers must be A- or better rated according to A.M. Best Company, with a Financial Size Category rating by A.M. Best of VIII or higher.

**Policy Requirements**

- Reference the name of the insured property (“Property”), including address, in the “description section” of the insurance certificate.
- Policies shall provide CREA entities a 30-day prior written notice of cancellation, termination, or reduction of coverage except for non-payment of premium where ten (10) days notice shall be given.
- Insurance binders, certificates, and policies must name the identified CREA entity shown below as an additional insured.
- Copies of policies, binders and certificates shall be provided to the SLP and Integratec Services, LLC (to [crea@integratec.biz](mailto:crea@integratec.biz)) no later than the effective date of the policy.

**Additional Insured / Loss Payee or Certificate Holder, as applicable:**

- For all policies, the following entities should be named:
  - Investor Limited Partner – its successors and/or its assigns
  - CREA SLP, LLC – its successors and/or its assigns

**Construction Period Coverage**

Prior to the commencement of any construction activities, the General Partner shall obtain (or cause to be obtained by the general contractor or the architect, as applicable) the following coverages, which shall remain in force until receipt of the certificates of occupancy for all buildings:

<b>Partnership</b>
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<b>Builder’s All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
Named Insured:	Partnership
Loss Payee:	See Page 1
Form:	Completed Value (Non-Reporting Form)

<b>Builder's All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
Perils:	Special form "All Risk" policy, including wind/hail, subject to the policy terms, conditions and exclusions
	Flood and Earthquake exclusion acceptable (unless specifically required by the Special Limited Partner. Wind coverage must be provided.
Valuation:	Replacement Cost including the existing structure(s), if applicable
Deductible:	Not to exceed \$25,000 per occurrence
	If located in Tier One Wind County, wind/hail deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000
Endorsements/Extensions:	Permission to Occupy Endorsement Renovations Coverage Endorsement Loss of Rents (12 Months)/Delay in Start Up. Projects located in Tier 1 hurricane counties must maintain Loss of Rent coverage equal to 18 months of rental income. Soft Costs Ordinance and Law Coverage (Mandatory if zoned legal non-conforming) Waiver of Co-insurance or Agreed Value Endorsement Transit Must Obtain Property Insurance on a Building by Building Basis once the Certificate of Occupancy is received for that building <ul style="list-style-type: none"> <li>NOTE: Limited Partner and Special Limited Partner to be associated in the adjustment of any claim</li> </ul>

<b>Commercial General Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible	No greater than \$10,000	
	Primary and Non Contributory	

<b>Umbrella Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
Deductible/SIR:	\$10,000	

<b>Boiler and Machinery (if property has centralized equipment, boilers or elevators)</b>	
Named Insured:	Partnership

Loss Payee/Additional Interest:	See Page 1
Form:	Comprehensive Form
Limit:	Total Building Value
Valuation:	Replacement Cost
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement

**Additional Coverages, if applicable**

Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone “A” or “V” – or any sub-designation of Zone “A” or “V”).</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril. If excluded, a separate wind/hail policy must be provided at the same limits as the property or builders risk with 12 month’s rents. For properties in Tier 1 hurricane counties, coverage must be 18 months of rental income.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>

**Worker’s Compensation and Employer’s Liability\***

If the Partnership has employee(s), provide evidence of Workers Compensation as applicable by law.		
Certificate Holder:	See Page 1	
Worker’s Compensation:	Per accident	\$1,000,000
Employer’s Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000

**Automobile**

If Partnership owns vehicles:		
Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

**General Contractor**

<b>Commercial General Liability</b>		
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Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per project" basis	
Deductible	No greater than \$10,000	

<b>Umbrella Liability</b>		
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Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
	Note: umbrella to be written on a following form	

<b>Worker's Compensation, Employer's Liability, and Automobile Liability</b>		
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Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

<b>Architect</b>		
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<b>Professional (Errors &amp; Omissions) Liability – including contractual liability coverage</b>		
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Certificate Holder:	See Page 1	
Minimum Limit:	\$1,000,000 (please supply Certificate of Insurance on an ACORD Form 25)	



<b>Property Management Company</b>
Note: Coverage required for both construction and permanent phases

<b>Commercial General Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

<b>Umbrella Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

<b>Worker's Compensation, Employer's Liability, Automobile Liability, and Fidelity Bond</b>		
Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Fidelity Bond/Crime	(6) months of projects gross rental receipts. Coverage must be in full effect at time of occupancy. Coverage to be held by the General Partner or the Property Management Company	
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

### Permanent Phase Coverage

<b>Partnership</b>
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<b>Property Insurance</b>		
Named Insured:	Partnership	
Loss Payee:	See Page 1	
Form:	ISO Special Form (please supply Evidence of Property Insurance, ACORD form 27, 28 or other "Special" or "All Risk" form); Copies of Policies to follow within 90 day of acceptance	

Limits:	Building (Real Property):	100% of Insurable Value (Replacement Cost)
	Contents (Personal Property):	Replacement Cost Coverage
	Business Interruption:	12 months of gross rental income with extra expense. This is to include tenant's gross rents as well as any subsidies. For properties in Tier 1 hurricane counties Business Interruption must extend to 18 months of gross rental income with extra expense.
Valuation:	Replacement Cost	
Deductible:	\$25,000 per occurrence If located in Tier 1 Wind County - wind deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000	
Extensions:	Vacancy/Un-occupancy up to 60 days Ordinance and Law (Mandatory if zoned legal non-conforming) Waiver of Coinsurance/Agreed Amount Endorsement	

Commercial General Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

Umbrella Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

Boiler and Machinery (if property has centralized equipment, boilers or elevators)		
Named Insured:	Partnership	
Loss Payee/Additional Interest:	See Page 1	
Form:	Comprehensive Form	
Limit:	Total Building Value	
Valuation:	Repair and/or Replacement	
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement	

<b>Additional Coverages, if applicable</b>	
Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone “A” or “V” – or any sub-designation of Zone “A” or “V”).</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>
Automobile:	<ul style="list-style-type: none"> <li>• Only required if an automobile is used as part of the property’s operations (i.e. transportation van) and titled in the name of the Partnership/Borrower. Liability in the amount of \$1,000,000 is required (per accident combined single limit).</li> </ul>

## **APPENDIX VII**

### **Replacement Reserve Items**

Carpet (not approved for regular unit turnover)  
Resilient Flooring (not approved for regular unit turnover)  
Kitchen Cabinet/Vanity  
Bath Vanity/Toilets/Tubs/Showers  
Countertop  
Oven, range & hood  
Refrigerator  
Dishwasher  
Disposal  
Microwave  
HVAC  
Washer Dryer  
Hot Water Heater  
Swimming Pool  
Exterior Paint  
Tuckpointing  
Roofs  
Basketball Courts  
Drives/Parking/Sidewalks  
Signage  
Gutters and downspouts  
Electrical  
Plumbing  
Irrigation  
Exterior wall cladding  
Fascia  
Tot lot  
Exterior lighting  
Fencing  
Carports  
Windows  
Stairs and landings  
Entry doors  
Computer lab, and the related furniture, fixtures and equipment  
Solar Panels  
Ceiling Fans  
Emergency Generator  
Elevators  
Security Cameras  
Fire Protection Equipment

## APPENDIX VIII

### CAPITAL CONTRIBUTIONS

#### I. First Installment

**\$2,294,358 (“First Installment”) shall be paid on later of execution of this Agreement and the satisfaction of the following conditions precedent, as determined by the Limited Partner:**

Required Delivery/Event	Notes
1. Admission of the Limited Partner and Special Limited Partner to the Partnership	
2. Receipt of the HAP Contract	
3. Closing and initial funding of the Tax Exempt Loan and the Bridge Loan and receipt of the Freddie Mac Commitment	
5. Receipt by the Limited Partner of Building Permits, or satisfactory evidence that the Building Permits will be available upon payment of fees.	
6. Receipt by the Limited Partner of such other documentation as it may reasonably request to satisfy its due diligence requirements including, without limitation, those documents listed on the Limited Partner’s closing checklist, a copy of which has been previously delivered to the General Partner.	

The General Partner shall cause the Partnership to reimburse the Special Limited Partner for due diligence, legal work and issuance of the tax opinion in the amount of \$50,000 from the proceeds of the First Installment. The balance of the proceeds of the First Installment shall be used to pay a portion of the Developer Fee in accordance with the Development Agreement and for Development Costs.

II. Second Installment

**\$2,294,358 (“Second Installment”) shall be paid on a draw basis beginning on the later of April 1, 2022 and/or 10 Business Days after the occurrence and satisfaction of the Second Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Second Installment shall be used [first to repay the Bridge Loan and then] for Development Costs.

PETERSBURG EAST HOUSING PARTNERS, LP

SECOND INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PETERSBURG EAST HOUSING PARTNERS, LP, a Virginia limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Second Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Second Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of the final title policy with a current date down endorsement, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	60% Construction Completion	
4.	Certification from the Architect that 60% of the Project is completed according to the Plans and Specifications.	
5.	Site visit by the Inspecting SLP Representative and receipt and approval of all documents listed in <i>Section 5.4(a)</i> .	
6.	Satisfaction of the conditions to the payment of the First Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PETERSBURG EAST HOUSING  
MANAGEMENT, LLC, a Virginia limited  
liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President



III. Third Installment

**\$1,720,768 (“Third Installment”) shall be paid on a draw basis beginning on the later of January 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Third Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Third Installment shall be used [first to repay the Bridge Loan and then] to pay a portion of the Developer Fee in accordance with the Development Agreement and for Development Costs.

PETERSBURG EAST HOUSING PARTNERS, LP

THIRD INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PETERSBURG EAST HOUSING PARTNERS, LP, a Virginia limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Third Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Third Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a current date down endorsement, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Construction Completion (except for those bonds or liens permitted pursuant to <i>Section 5.3(p)</i> ).	
4.	Receipt of a lien waiver from the General Contractor with respect to the work performed and/or materials supplied through the date of Construction Completion for which it has been paid to date.	
5.	Certification from the Architect that the Project is completed according to the Plans and Specifications.	
6.	Receipt of a copy of the temporary certificates of occupancy for the Project	
7.	Site visit by the Inspecting SLP Representative and receipt and approval of all documents listed in <i>Section 5.4(a)</i> .	
8.	Receipt by the Special Limited Partner of the Accountants’ draft Cost Certification.	

9.	Satisfactory evidence that all environmental remediation of the Project has been completed in accordance with Appendix XI and the requirements of any governmental authority having jurisdiction over the Project.	
10	Post-construction testing shall be completed in order to confirm whether a mitigation system needs to be activated prior to occupancy. If testing results indicate levels at or above 4.0 pCi/L then a mitigation system needs to be activated and subsequent testing is required to confirm the testing results indicate levels are not at or above 4.0 pCi/L. [ <b>CREA TO CONFIRM</b> ]	All required actions (if any) with respect to radon will be performed by a licensed third party consultant.
11	Evidence that (a) the preparer of the Cost Segregation Study has been engaged by the Partnership, (b) work has commenced on the Cost Segregation Study and (c) the final Cost Segregation Study will be delivered in accordance with Section 5.3(xx).	
12	Satisfaction of the conditions to the payment of the Second Installment.	

Upon the Limited Partner’s receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_ day of \_\_\_\_\_, 20\_\_.

PETERSBURG EAST HOUSING MANAGEMENT, LLC, a Virginia limited liability company

By: Vitus Development IV, LLC, a Delaware limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

IV. Fourth Installment

**\$3,586,226 (“Fourth Installment”) shall be paid on the later of April 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Fourth Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

In accordance with the terms contained herein, Cost Savings shall be distributed concurrently with the funding of the Fourth Installment. The proceeds of the Fourth Installment shall be used to pay a portion of the Developer Fee in accordance with the Development Agreement[, to repay the Bridge Loan] and for Development Costs.

PETERSBURG EAST HOUSING PARTNERS, LP

FOURTH INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PETERSBURG EAST HOUSING PARTNERS, LP, a Virginia limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Fourth Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Fourth Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Achievement of Stabilized Operations, which may occur simultaneously.	
4.	Special Limited Partner’s receipt and approval of a third party review of all the first year’s tenant files for compliance with the Code and State Housing Finance Agency requirements.	
5.	Receipt by the Special Limited Partner of the Accountants’ final Cost Certification and final 50% Test.	
6.	Receipt of a copy of the permanent certificates of occupancy for the Project	
7.	Satisfaction of the conditions to the payment of the Third Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PETERSBURG EAST HOUSING  
MANAGEMENT, LLC, a Virginia limited  
liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

V. Fifth Installment

**\$1,576,080 (“Fifth Installment”) shall be paid on the later of October 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Fifth Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Fifth Installment shall be used for Development Costs, to fund [all] required reserves and to pay a portion of the Developer Fee in accordance with the Development Agreement.

PETERSBURG EAST HOUSING PARTNERS, LP

FIFTH INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PETERSBURG EAST HOUSING PARTNERS, LP, a Virginia limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Fifth Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Fifth Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Receipt of IRS Forms 8609 in form reasonably satisfactory to the Special Limited Partner (which shall include the fully executed Part I & Part II) for all buildings in the Project.	
4.	Receipt by the Special Limited Partner of a properly recorded Restrictive Covenant.	
5.	[All reserves] required under the Partnership Agreement have been funded in full, which may be contemporaneous with the funding of the Fifth Installment.	
6.	Receipt by the Special Limited Partner of the executed Deferred Development Fee Note if any Development Amount will be deferred pursuant to the Development Agreement.	
7.	Satisfaction of the conditions to the payment of the Fourth Installment.	



Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PETERSBURG EAST HOUSING  
MANAGEMENT, LLC, a Virginia limited  
liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

**APPENDIX IX**

**POST-CLOSING ITEMS**

Description of Item  
[TBD]

Required Date of Delivery

**APPENDIX X**

**REPORTING REQUIREMENTS**

<b>Report Name</b>	<b>Description</b>	<b>Deadline</b>
<b>Draw Request</b>	Until the Project has attained Construction Completion, a construction draw request report including: (i) percentage of construction complete; and (ii) cumulative and proposed change orders.	Due monthly
<b>Monthly Leasing Reports</b>	<p>a. Until the date the Project has attained 100% Qualified Occupancy, on a lease-up status report on a building by building basis, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>b. If, after achieving 100% Qualified Occupancy, a Project fails to maintain occupancy levels above 90% for the previous quarter, the General Partner must provide a monthly occupancy report, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>c. In addition to the qualified occupancy report, upon request of the Special Limited Partner or the General Partner shall provide a statement of income and expenses, an operating statement, an accounts receivable and accounts payable aging report, and a check register or a detailed general ledger.</p>	Due by the 10 <sup>th</sup> of each calendar month
<b>First Year Tenant Files</b>	<p>Upon initial lease-up of the Project, each unit's first year tenant file shall be provided electronically to the Special Limited Partner showing compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit Project, per the state allocation agency and within the meaning of Section 42(h) of the Code.</p> <p>Files will be sent by the Special Limited Partner to a third-party reviewer, unless the Special Limited Partner has approved file review by a third-party hired by the</p>	<p>-The greater of the first <b>10% or 5 files</b> are due as they become qualified</p> <p>-At <b>50%</b> qualified occupancy all available files are due</p> <p>-At 100% qualified occupancy, the balance of the files</p>

	Partnership. The Partnership shall budget and pay no more than \$30 per unit in order to hire an inspector.	are due within 30 days of the date of 100% qualified occupancy
<b>Quarterly Status Report and Financials</b>	<p>Commencing with the start of lease-up, a report showing financial and operational performance, and including:</p> <ol style="list-style-type: none"> <li>1. Signed quarterly status report – all questions answered</li> <li>2. Copies of Real Estate Tax Bill and evidence of payment</li> <li>3. A Rent Roll for each month in the quarter</li> <li>4. Income Statement (Excel format is preferred)</li> <li>5. Balance Sheet (Excel format is preferred)</li> <li>6. Operating and Replacement Reserve Bank Statements for all 3 months of the quarter</li> <li>7. Detailed explanation of any variances from the budget submitted to CREA</li> <li>8. Any other pertinent information regarding the Partnership and its activities as may be requested by the Special Limited Partner, including any correspondence between the Partnership and the IRS or State Agency, such as the State Designation or IRS Form(s) 8609)</li> </ol>	<p>Due within 30 days of the end of quarter</p> <p>Quarter 1: April 30</p> <p>Quarter 2: July 31</p> <p>Quarter 3: October 31</p> <p>Quarter 4: January 31</p>
<b>Monthly Financial Statements *</b>	<p>A copy of the prior month's financial operations of the property, including DSCR calculation before reserves.</p> <p><i>*Required only if Project did not maintain above 1.0 DSCR with replacement reserves for the previous quarter</i></p>	Due by the 20 of each month

<p><b>Audited Financials and Tax Returns (with K-1's) of Partnership</b></p>	<p>At the Partnership's expense:</p> <ol style="list-style-type: none"> <li>1. Copies of tax returns and reports</li> <li>2. Financial statements on a year over year comparable basis for the Partnership (consisting of a balance sheet as of the end of such calendar year, statements of income, and each Partner's equity and changes in financial position) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of the Accountant</li> <li>3. Cash flow statement</li> <li>4. Statement and reconciliation of each Partner's Capital Account</li> <li>5. Statement of the tax basis for the computation of the Tax Credits and depreciation deductions</li> <li>6. Depreciation schedules for current and all future years, and a depreciation worksheet, which shall serve to establish material allocations of assets for cost recovery purposes.</li> </ol> <p>Financial statements shall identify: (i) computation of Cash Flow verified by the Accountant; (ii) distributions from Cash Flow from operations during the calendar year; (iii) distributions from Cash Flow generated during a prior period which had been held as reserves; (iv) Net Cash from Sales and Refinancings; (v) costs reimbursed to the General Partner or affiliates; (vi) reserves; (vii) borrowed monies, loans and additional Capital Contributions; (viii) Affiliate transactions; (ix) transactions outside of the ordinary course of business with a description thereof; (x) a copy of the HUD REAC Score, if applicable, (xi) acceptable annual Tax Credit training compliance certifications regarding the Management Agent; and (xii) any other information reasonably requested by the Special Limited Partner.</p>	<p>Financial Statements and Tax Returns:</p> <p>Drafts – within 45 days after year end</p> <p>Final versions– within 90 days after year end</p> <p>Engagement Letter with CPA 30 days before year end</p>
<p><b>Audited Financials and Tax Returns of General Partner and Guarantor(s)</b></p>	<p>Current audited financial statements of the General Partner and each Guarantor entity, [personal financial statements may be unaudited] and, upon written request of the Special Limited Partner, updates to the same on a quarterly basis.</p>	<p>Within 120 days after year end</p>

<p><b>Operating Budget</b></p>	<p>Projected annual operating and capital improvements budget (in excel format), including:</p> <ul style="list-style-type: none"> <li>a. Account numbers for the following year;</li> <li>b. Separate breakout of projected rents used for rental income in the budget;</li> <li>c. Proposed repairs and capital improvements for the upcoming year;</li> <li>d. Proposed use of Replacement Reserves; and</li> <li>e. Any other information reasonably requested by the Special Limited Partner.</li> </ul>	<p>Due at least 30 days prior to year end</p>
<p><b>Annual Owner Certification, and Periodic Reports required by Project Lenders or Governmental Agencies</b></p>	<ul style="list-style-type: none"> <li>a. Certification by the General Partner to the Limited Partner, in the same scope and manner that it is required to certify to the applicable State Housing Finance Agency, that the Partnership is in compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code.</li> <li>b. A copy of any periodic financial or performance report (and supporting documents) provided by the Partnership to any federal, state, or local governmental agency or to any Partnership lender, or any compliance monitoring report provided to the State Housing Finance Agency, such as the State Designation and IRS Form(s) 8609.</li> </ul>	<p>At the same time such certification or report is filed with the Governmental Agency or delivered to the Project Lender</p>
<p><b>Permanent Insurance Policies</b></p>	<p>See Appendix VI Insurance Requirements</p>	

**APPENDIX XI**

**ENVIRONMENTAL CLEARANCE LETTER**

*[attached behind]*

**APPENDIX XII**

**DESIGNATED INDIVIDUAL ACKNOWLEDGEMENT**

The undersigned Designated Individual for the Project acknowledges and agrees to be bound by the terms of *Section 5.4(d)* of the Amended and Restated Agreement of Limited Partnership of Petersburg East Housing Partners, LP dated as of [\_\_\_\_\_] \_\_, 2021 (the “Partnership Agreement”).

Capitalized terms used but not defined shall have the meanings set forth in the Partnership Agreement.

“DESIGNATED INDIVIDUAL”

\_\_\_\_\_  
ROGER HEIM

Effective as of: \_\_\_\_\_



B

Virginia State Corporation  
Commission Certification  
(MANDATORY)

# Commonwealth of Virginia



## State Corporation Commission

I Certify the Following from the Records of the Commission:

The foregoing is a true copy of all business entity documents on file in the Clerk's Office of the Commission relating to Petersburg East Housing Partners, LP.

Nothing more is hereby certified.



Signed and Sealed at Richmond on this Date:

December 11, 2020

A handwritten signature in cursive script, reading "Bernard J. Logan".

---

Bernard J. Logan, Interim Clerk of the Commission

C

Principal's Previous  
Participation Certification  
(MANDATORY)



## Previous Participation Certification

Development Name: Petersburg East I & II Apartments  
Name of Applicant (entity): Petersburg Housing Partners, LP

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 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

**Scott Langan**  
\_\_\_\_\_  
Printed Name

**October 18, 2021**  
\_\_\_\_\_  
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: Petersburg East I & II Apartments  
 Name of Applicant: Petersburg East Housing Partners, LP

**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 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.
- 3 List only tax credit development experience since 2005 (i.e. for the past 15 years)
- 4 Use separate pages as needed, for each principal.

Vitus Development IV, LLC Controlling GP (CGP) or 'Named' Managing Member of Proposed property? Y  
 Principal's 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	Kekuilani Gardens - Kapolei, HI	Kekuilani Gardens Partners, LP	Y	56	55	12/28/16	2/22/18	N
2	John Fox Towers - Philadelphia, PA	John Fox Housing Partners, LP	Y	273	260			N
3	Hadley Gardens - Miami, FL	Hadley Housing Partners, LP	Y	151	150	12/31/17	1/15/21	N
4	Summit Hill - Atlanta, GA	Paradise Housing Partners, LP	Y	176	160	9/30/18	9/12/19	N
5	Guardian Court - Louisville, KY	Guardian Court Housing Partners, LP	Y	128	121	12/20/18	2/19/20	N
6	Oceanside Estates - Pinellas Park, FL	Oceanside Housing Partners, LP	Y	104	104			N
7	Ogden Manor - Naperville, IL	Ogden Housing Partners, LP	Y	108	108	10/31/18	8/20/20	N
8	Meadowood - Alcoa, TN	Meadowood Housing Partners, LP	Y	100	99	9/30/21		N
9	Linwood - Gainesville, GA	Westlake Linwood Housing Partners, LP	Y	100	84	11/17/19	4/8/21	N
10	Westlake - Savannah, GA	Westlake Linwood Housing Partners, LP	Y	100	100	10/9/19	4/9/21	N
11	Ridgeway - Chattanooga, TN	Ridgeway Housing Partners, LP	Y	120	120			N
12	Sanford Hildebrandt Towers - Seattle, WA	FFHS Housing Partners, LP	Y	372	360	6/30/19	12/23/20	N
13	Greater Englewood - Englewood, NJ	Greater Englewood Housing Partners, LP	Y	270	205			N
14	Fort Hill Gardens - Roxbury, MA	Roxbury Housing Partners, LP	Y	82	82			N
15	Heritage Park - Charlotte, NC	Heritage Park Housing Partners, LP	Y	151	50			N
16	Holmes Greenway - Minneapolis, MN	Holmes Housing Partners, LP	Y	54	50			N
17	Oak Park Village - St. Louis Park, MN	Oak Park Village Partners, LP	Y	100	100			N
18	Market North - Wilmington, NC	Market North Housing Partners, LP	Y	204	201			N
19	Hidden Valley Estates - Wentzville, MO	Hidden Valley Housing Partners, LP	Y	200	200			N
20	Edgewood Village - East Lansing, MI	Edgewood Housing Partners Limited Dividend Hou	Y	135	126			N
21	Allen Young - Plainfield, NJ	IC Development Urban Renewal, LLC	Y	106	105			N
22	Eastridge Estates - Rochester, MN	Eastridge Housing Partners, LP	Y	126	126			N
23	SNAP - Savannah, GA	SNAP Housing Partners, LP	Y	233	233			N
24	Sandy Springs - Macon, GA	SSGM Housing Partners, LP	Y	74	74			N
25	Beaumont - Burlington, NC	Beaumont Avenue Housing Partners, LP	Y	100	89			N
26	Coleridge Road - Asheboro, NC	Coleridge Road Housing Partners, LP	Y	100	94			N
27	Crown Pointe - Rockingham, NC	Crown Pointe Housing Partners, LP	Y	50	49			N
28	Franklin Court - Louisburg, NC	Franklin Court Housing Partners, LP	Y	50	50			N
29	Glendale Court - Greenville, NC	Glendale Court Housing Partners, LP	Y	100	81			N
30	Jefferson Court - Goldsboro, NC	Jefferson Court Housing Partners, LP	Y	60	55			N
31	Tucker Street - Burlington, NC	Tucker Street Housing Partners, LP	Y	100	90			N
32	Jewel Lake - Anchorage, AK	Jewel Lake Housing Partners, LP	Y	129	123			N
33	Oakley Square - Durham, NC	Oakley Square Housing Partners, LP	Y	100	99			N
34	Hollywood Shawnee - Atlanta, GA	Hollywood Shawnee Housing Partners, LP	Y	112	81			N
35	Las Palmas - Eagle Pass, TX	Apartments of Las Palmas I, LLC	Y	64	64			N
36	Oso Bay - Corpus Christi, TX	Oso Bay Apartments, LLC	Y	104	100			N
37	Shakopee Village - Shakopee, MN	Shakopee Housing Partners, LP	Y	62	62			N
38		Phone Number (253) 886-2906						
39								
40								

\* 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.

E

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



**PURCHASE AND SALE AGREEMENT ASSIGNMENT AGREEMENT**  
(Petersburg East I and Petersburg East II)

This PURCHASE AND SALE AGREEMENT ASSIGNMENT AGREEMENT (this "Agreement") is made and entered into as of December 9, 2020 (the "Effective Date") by and among Heritage Realty, LLC, a New York limited liability company ("Heritage"), Petersburg East Housing Partners, LP, a Virginia limited liability company (the "Partnership"), and Vitus Development IV, LLC, a Delaware limited liability company ("Vitus").

RECITALS

- A) Heritage entered into that certain Purchase and Sale Agreement dated September 10, 2020 (the "Petersburg I Agreement") with Whitehill Estates-I, L.P. (the "Petersburg I Seller") regarding the purchase and sale of the multifamily apartment complex commonly known as Petersburg East I Apartments, located at 110 Croatan Drive, Petersburg, Virginia ("Petersburg I").
- B) Heritage entered into that certain Purchase and Sale Agreement dated September 10, 2020 (the "Petersburg II Agreement" and together with Petersburg I Agreement, the "Purchase Agreements") with Whitehill Estates-II, L.P. (the "Petersburg II Seller" and together with the Petersburg I Seller, the "Sellers") regarding the purchase and sale of the multifamily apartment complex commonly known as Petersburg East II Apartments, located at 110 Croatan Drive, Petersburg, Virginia ("Petersburg II" and together with Petersburg I, the "Projects").
- C) Heritage and the Partnership entered into that certain Assignment and Assumption of Purchase and Sale Agreements dated December 9, 2020 (the "Assignment") whereby the Partnership agreed to assume Heritage's rights under the Purchase Agreements.
- D) In order to assign the Purchase Agreements without the consent of the Seller, the Partnership and Heritage have agreed that Heritage will act as the Manager of Petersburg East Housing Management, LLC, a Virginia limited liability company (the "General Partner") which acts as the general partner of the Partnership.
- E) In consideration of the Assignment and in order to articulate the obligations, responsibilities and rights of Heritage and the Partnership while Heritage serves as manager of the General Partner, Heritage and the Company are entering into this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do covenant and agree as follows:

1. Recitals. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied. The Recitals are incorporated herein by reference.
2. Escrow for Assignment. For the purposes of this Agreement, the term "Title Company" shall refer to Chicago Title Insurance Company, 701 5th Avenue, Suite 2700, Seattle, WA 98104, email: michael.costello@ctt.com, attention: Mike Costello. The term "Escrow Agent" shall have the same meaning as set forth within the Purchase Agreements.
3. Assignment Price. Heritage has not disclosed the price for which Heritage has agreed to acquire the Projects from the Sellers (said price being the "Heritage Purchase Price"). At the Closing (as defined in the Purchase Agreements), the Partnership shall deliver to the Title Company the amount of \$8,800,000.00 (the "Assignment Purchase Price") in consideration for the Assignment. Upon confirmation in writing from Vitus and Heritage that the date for Closing has been established and the funds required for Closing need to be wired to the Escrow Agent, which confirmation may be in the form of an email, the Title Company shall release, by wire transfer, at Heritage's direction, a portion of the Assignment Purchase Price to the Escrow Agent to be used for the Heritage Purchase Price with the remainder being delivered by wire transfer as directed by Heritage.
4. Assignment Escrow Deposit.
  - a. Within three (3) business days after the Effective Date, the Partnership shall deposit with the Title Company \$300,000 in earnest money (the "Deposit"). The Deposit will be applied to the Assignment Purchase Price at Closing unless earlier returned to the Partnership upon the occurrence of a Full Refund Event that was not cured within any applicable notice and cure period.
  - b. The Partnership acknowledges that Heritage has currently posted \$100,000 of earnest money with the Escrow Agent (the "Original Earnest Money") and that upon deposit of the Deposit with the Title Company, Heritage is authorized to direct the Title Company to transfer \$100,000 of the Deposit to Heritage by wire transfer, which \$100,000 shall be deemed earned by Heritage and nonrefundable, except in the event of a Full Refund Event that is not cured within any applicable notice and cure period. Upon such transfer, the Original Earnest Money shall be applicable to the Assignment Purchase Price at Closing, unless a Full Refund Event occurred, was not cured within any applicable notice and cure period and the Deposit has been returned to the Partnership pursuant to this Agreement. After said transfer, should Heritage receive a refund of the Original Earnest Money (as replaced by a portion of the Deposit), Heritage shall immediately return the Original Earnest Money to the Title Company who shall deposit said money to an account directed by Vitus.
  - c. The entire Deposit, including the portion to be released to Heritage, shall be wholly refundable to the Partnership if a Full Refund Event occurs. A "Full Refund Event" under this Agreement occurs when: (i) Heritage is in material breach of or default

under this Agreement, which material breach or default is not cured within ten (10) days of Vitus delivering written notice to Heritage of the event that gave rise to such material breach or default (ii) the Partnership chooses to terminate the Purchase Agreements pursuant to the terms contained therein, and in so doing, the Purchaser under said Purchase Agreements is entitled to receive a refund of the Original Earnest Money, (iii) such other event occurs under the Purchase Agreements, other than a default of Purchaser, wherein the Purchaser thereunder is entitled to receive a return of the Original Earnest Money, (iv) a material default under either or both Purchase Agreements occurs because of the actions or inaction of Heritage which would allow Seller to terminate one or both of the Purchase Agreements and which was not cured within any applicable notice or cure period, or (v) as otherwise set forth in this Agreement.

5. Resignation of Manager. Upon confirmation from the Escrow Agent that the transactions described in the Purchase Agreements have “closed” and fee title to the Projects have been conveyed to the Partnership, Heritage shall resign as the manager of the General Partner. Upon such resignation, Heritage agrees to enter into any such written documentation as may be reasonably required by the Partnership to memorialize said resignation, including, but not limited to the First Amendment to the Operating Agreement of the General Partner, a form of which is attached hereto as Exhibit A. The obligation for Heritage to resign as Manager shall survive Closing.
6. Role as Manager and Indemnification Obligations. Heritage acknowledges that its role as manager of the General Partner is intended to be minimal and as such agrees that before exercising any of powers, duties or responsibilities in its capacity as manager under the Operating Agreement of the General Partner that are not routine, Heritage shall consult with Vitus, which consultation may be verbal or by email. The Partnership and Vitus acknowledge and agree that Heritage will continue to be interacting with Seller with regard to the Purchase Agreements as Purchaser thereunder and not in its capacity as manager of the General Partner. Heritage additionally understands that Vitus may require Heritage to specifically take certain reasonable actions in its capacity as manager of the General Partner, and Heritage agrees that it is obligated to accurately and promptly take such actions as directed by Vitus; provided, however, that, such actions shall be reasonable, shall be in the best interest of the transaction evidenced by the Purchase Agreements and no such action shall be in contravention of any law, statute ordinance, rule, regulation, governmental agency requirement or policy or court order. Should Heritage fail to take such an action it was directed to take by Vitus in its capacity as manager of the General Partner, it shall be considered a Full Refund Event, and Vitus may choose to terminate this Agreement upon written notice to Heritage and the Title Company after any applicable notice and cure period. Additionally, should Vitus direct Heritage to take an action described above, Heritage shall strictly follow any valid instructions provided by Vitus and shall fully indemnify, defend and hold the Partnership and Vitus, and each of their affiliates, partners, members and employees (the “Vitus Indemnified Parties”) harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable, out-of-pocket costs and expenses (including without limitation, reasonable

attorneys' fees) actually incurred by the Vitus Indemnified Parties to third parties solely and directly as a result of the failure by Heritage to follow said instructions.

7. Duty to Report. Heritage represents and warrants that it has delivered to Vitus any and all due diligence, reports, documentation, information, correspondence or any other writing or communication regarding the Projects (collectively, the "Due Diligence Materials") that are in its possession as of the Effective Date. Further, Heritage covenants to promptly provide to Vitus any and all Due Diligence Materials it receives on or after the Effective Date to Vitus. Any Due Diligence Materials shared with Vitus or the Partnership shall remain subject to any confidentiality requirements of the party providing such Due Diligence Materials. Heritage shall fully indemnify, defend and hold the Vitus Indemnified Parties harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable, out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by the Vitus Indemnified Parties as a result of the failure by Heritage to promptly provide Vitus or the Partnership said due diligence, reports, documentation, information, correspondence or any other writing or communication regarding the Projects. Notwithstanding the foregoing, Heritage is merely the conduit for forwarding the Due Diligence Materials to Vitus and makes no representation or warranty that the Due Diligence Materials are true, correct or complete; provided, however, to the best of Heritage's knowledge, the Due Diligence Materials are true and correct and Heritage has no reason to believe that any of the Due Diligence Materials are false or contain material errors and/or misrepresentations. Additionally, if for some reason Heritage obtains knowledge or discovers that any of the Due Diligence Materials are not true and correct, Heritage will promptly provide Vitus and the Partnership of that knowledge.
8. Indemnification Prior to Assignment. Heritage agrees to fully indemnify, defend and hold the Vitus Indemnified Parties harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by the Vitus Indemnified Parties to third parties in connection with any liability arising under or in any way relating to the Purchase Agreements arising prior to the Effective Date. Heritage agrees and acknowledges that the indemnification described in the foregoing sentence shall cover any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by the Vitus Indemnified Parties to third parties in connection with any liability arising under or in any way relating to the Assignment, prior to the Effective Date.
9. Indemnification Subsequent to Assignment. Heritage agrees to fully indemnify, defend and hold the Vitus Indemnified Parties harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by Vitus Indemnified Parties to third parties in connection with any liability arising under or in any way relating to actions taken by Heritage, its affiliates, employees, partners, members or agents (the "Heritage Indemnified Parties") on or after the Effective Date. The

Partnership and Vitus agree to fully indemnify, defend and hold the Heritage Indemnified Parties harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by the Heritage Indemnified Parties to third parties in connection with any liability arising under or in any way relating to actions taken by the Partnership (unless such action was taken by Heritage in an unexcused contravention to or without explicit instruction from Vitus) and Vitus, or either of their employees, partners (unless such action was taken by Heritage solely in its role as manager of the General Partner in an unexcused contravention to or without explicit instruction from Vitus), members or agents.

10. Indemnifications in General. For the avoidance of doubt, notwithstanding anything to the contrary contained in this Agreement, in no event shall a party hereto be required to indemnify, defend, hold harmless or reimburse another party seeking indemnification, defense, to be held harmless or reimbursement, should such party seeking indemnification, defense, to be held harmless or reimbursement have committed fraud, been grossly negligent through its actions or failure to act, or committed willful misconduct.
11. Reimbursement of Out of Pocket Costs. Heritage shall provide to the Partnership and Vitus a detailed list of costs and expenses incurred by Heritage in connection with the Purchase Agreements. Upon confirmation by Vitus that said list is reasonable, such confirmation not to be unreasonably withheld, conditioned or delayed, the Partnership shall reimburse Heritage for said costs and expenses.
12. Right of First Refusal. Attached to the Extended Use Regulatory Agreement and Declaration of Restrictive Covenants dated July 12, 2002 which encumbers the Petersburg II real estate there is a Right of First Refusal dated March 11, 2002 wherein the National Development Foundation, Inc., is granted a right of first refusal to purchase Petersburg II (the "ROFR"). Vitus and the Partnership require that (a) ROFR be released or terminated prior to or at Closing or removed as an exception in the policy of title insurance to be issued at Closing, and (b) the title insurance company that Vitus intends to use for the future tax credit transaction, whether it be the Escrow Agent, the Title Company, or some other title insurance company, confirms, in writing, that the ROFR will not appear as an exception on the owner's and loan title policies issued in connection to the future tax credit transaction. If the ROFR is not released or terminated prior to or in connection with Closing, it shall be considered a Full Refund Event, unless waived by Vitus.
13. Representations and Covenants of Heritage.
  - a. To the best of Heritage's knowledge, the Sellers are not in default, or with the passage of time will not be in default, of any of the representations, warranties and/or covenants contained in the Purchase Agreements.
  - b. Heritage is not in default under either of the Purchase Agreements.

- c. Heritage has not delivered the Notice to Proceed, as defined in the Purchase Agreements.
- d. Heritage has delivered all of the due diligence it has received from the Sellers to the Partnership and Vitus.
- e. The Heritage Purchase Price is less than \$8,800,000.
- f. Heritage is not a “foreign person” as such term is used and defined in Section 1445 of the Code.
- g. Heritage will act in good faith in connection with this Agreement and shall cooperate with Vitus and the Partnership in connection with obtaining the Approvals (defined below).

14. HAP Assignment and Approvals. The parties hereto understand and agree that it is important to the Projects that they obtain an assignment of the existing Housing Assistance Payments Contract (“HAP Contract”) administered by the U.S. Department of Housing and Urban Development (“HUD”). The parties hereto further understand and agree that Vitus will take the lead in and be primarily responsible for applying for, pursuing and obtaining (a) the assignment and continuance of the HAP Contract to the Partnership with HUD and any other HUD related matters or approvals from HUD, (b) the approval of the Partnership as the new owner of the Projects and any other Virginia Housing Development Authority (“VHDA”) related matters or approvals from VHDA, and (c) any other state or local governmental, or quasi-governmental entity approvals in connection with the conveyance, ownership and/or operation of the Projects. The approvals described in the preceding sentence are collectively referred to herein as the “Approvals”. Vitus shall take any and all necessary or prudent actions to obtain the approvals, including, but not limited to, executing such applications, scheduling and attending conference calls or meetings, and providing such information and documents reasonably necessary to obtain the Approvals. Heritage shall cooperate with Vitus in connection with obtaining the Approvals and shall have the opportunity to review and approve the application package and any submission to HUD in connection with the assignment of the HAP Contract or other HUD Approvals prior to their submission to HUD, which approval shall not be unreasonably withheld, conditioned or delayed, it being understood that the HUD submission shall, if required, contemplate Heritage’s planned withdrawal from the General Partner and under no circumstances show Heritage being involved with the Project subsequent to Closing. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Heritage will have no liability to Vitus or the Partnership in the event that the Approvals cannot be obtained. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, each party hereto agrees that it shall not take any action, or fail to take any action, that might, in any way, harm, diminish, damage or jeopardize the standing or reputation of any other party’s relationship with HUD, VHDA or any other agency, whether in connection with the Approvals or otherwise.

15. Broker's Fee. Heritage, Vitus and the Partnership represent and warrant there are no real estate agents, brokers, finders or salespeople who would be entitled to a commission on account of this sale except for Andrew S. Daitch of Affordable Housing Advisers of Marcus & Millichap (the "Broker"). The Broker is owed a fee of \$100,000 in connection with the Assignment and this Agreement (the "Broker's Fee"). Heritage and Vitus (or if Vitus so elects, the Partnership), shall each be responsible for one half of the Broker's Fee and each will promptly pay the Broker when the Broker's Fee is due. If either party does not pay their portion of the Broker's Fee, the other party, so long as they have made proper payment to the Broker of their portion of the Broker's Fee, shall be fully indemnified, defended and held harmless by the defaulting party from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by the non-defaulting party. The parties agree to indemnify each other against any claim by any real estate agent, broker, or salesperson for commission where such real estate agent, broker or salesperson claims a commission on this sale through dealings with the indemnifying party.
16. Title Company Responsibilities. This Section sets forth all of the responsibilities of the Title Company pursuant to this Agreement, and the parties agree that such duties are ministerial in nature. However, Title Company's signature hereon shall not be a prerequisite to the binding nature of this Agreement on the parties. The Title Company is expressly authorized to rely upon a notice delivered to it by any of the parties, without any duty to investigate the sufficiency, manner of execution, or validity of any such notice. Title Company shall not be required to determine whether or not the terms and conditions of this Agreement have been complied with by the parties. Title Company shall not at any time be held liable for actions taken or omitted to be taken in good faith and without fraud, gross negligence or willful misconduct. Title Company is hereby relieved of all liability under this Agreement except for fraud, gross negligence, or willful misconduct. The parties agree to save and hold Title Company harmless from any loss and from any claims or demands arising out of its actions hereunder and hereby agree to indemnify Title Company from any claims or demands for losses arising out of its activities hereunder, including without limitation, court costs, reasonable attorney's fees, and expenses. The Title Company may be removed at any time by an instrument or concurrent instruments in writing delivered to the Title Company signed by all of the parties to this Agreement.
17. Facsimile, Electronic and Counterpart Signatures. Executed copies of this Agreement or any amendments hereto delivered via facsimile or other electronic means, including email, shall be binding upon the parties, and copies of signatures appearing hereon or on any amendments hereto shall be deemed to be original signatures. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
18. Survival. The representations, warranties, covenants and indemnification obligations of shall survive the termination of this Agreement and the consummation of the transactions described herein.

19. Notice. All notices required or permitted hereunder must be in writing and shall be served on the parties at the following address:

As to Heritage: Heritage Realty, LLC  
Worldwide Plaza  
825 8<sup>th</sup> Ave., Suite 18N  
New York, NY 10019  
Attn: Alex Hajibay  
Email: ahajibay@heritageaffordable.com

With a copy to: Reno & Cavanaugh PLLC  
455 Massachusetts Avenue NW, Suite 400  
Washington, DC 20001  
Attn: Matthew Greeson  
Email: mgreeson@renocavanaugh.com

As to Vitus and the Partnership: Vitus Development IV, LLC  
299 Broadway, Suite 1820  
New York, New York 10007  
Attn: Scott Langan  
Email: scott.langan@vitus.com

With a copy to: Winthrop & Weinstine, P.A.  
225 S. Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402  
Attn: John Nolde; Jacob Bean  
Email: jnolde@winthrop.com; jbean@winthrop.com

As to Escrow Agent: Chicago Title Insurance Company  
701 5<sup>th</sup> Avenue, Suite 2700  
Seattle, WA 98104  
Attn: Mike Costello  
Email: michael.costello@ctt.com

Any such notices may be sent by: (a) certified mail, return receipt requested, in which case notice will be deemed delivered three business days after deposit, postage prepaid in the U.S. mail; or (b) a nationally recognized overnight courier, in which case notice will be deemed delivered one business day after deposit with such courier, if sent by next day or overnight delivery; or (c) email transmission, in which case notice will be deemed delivered upon electronic verification that transmission to recipient was completed, provided that notices sent by email transmission on a day other than a business day, or after 5:00 p.m. on a business day, shall be deemed given on the first business day following the date of transmission, provided that (i) notices sent by email transmission shall be followed by delivery of such notice pursuant to sub clause (a), (b) or (d) of this paragraph, unless such follow up requirement is waived by Seller; or (d) personal delivery.




All notices must be sent to each party in the same manner and at the same time. The above addresses and facsimile numbers may be changed by notice to the other party; provided that no notice of a change of address or facsimile number will be effective until actual receipt of such notice.

[Signature Pages and Exhibits to Follow]

IN WITNESS WHEREOF, the parties have executed this Purchase and Sale Agreement Assignment Agreement as of the Effective Date, intending to be legally bound.

**VITUS:**

Vitus Development IV, LLC, a Delaware limited liability company

  
\_\_\_\_\_  
By: Scott O. Langan  
Its: Vice President

**HERITAGE:**

Heritage Realty, LLC, a New York limited liability company


  
\_\_\_\_\_  
By: Alexander Hajibay  
Its: Managing Member

**PARTNERSHIP:**

Petersburg East Housing Partners, LP, a Virginia limited partnership

By: Petersburg East Housing Management, LLC  
Its: General Partner

By: Vitus Development IV, LLC  
Its: Manager

  
\_\_\_\_\_  
By: Scott O. Langan  
Its: Vice President

IN WITNESS WHEREOF, the undersigned has executed and delivered this Purchase and Sale Agreement Assignment Agreement as of the Effective Date to evidence its agreement to serve as escrow agent and agreement to be bound by the relevant provisions hereto

**TITLE COMPANY:**

Chicago Title Insurance Company



By: Michael Costello  
Its: Commercial Escrow Specialist

Exhibit A  
(Form of First Amendment to Operating Agreement)

**FIRST AMENDMENT TO OPERATING AGREEMENT**

This FIRST AMENDMENT TO OPERATING AGREEMENT (this “Amendment”) of Petersburg East Housing Management, LLC, a Virginia limited liability company (the “Company”) is entered into as of [\_\_\_\_\_], 2021 (the “Effective Date”) by and among Heritage Realty, LLC, a New York limited liability company (“Heritage”), Vitus Development IV, LLC, a Delaware limited liability company (“Vitus”), and acknowledged by the Company.

RECITALS

- A. The Company is governed by that certain Operating Agreement dated [\_\_\_\_\_], 2020 (the “Original Agreement”).
- B. Heritage desires to resign as Manager of the Company leaving Vitus as the sole manager of the Company.
- C. The parties wish to memorialize this resignation by entering into this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do covenant and agree as follows:

- 1. Any capitalized term not defined herein shall have the meaning given to it in the Original Agreement.
- 2. Heritage hereby resigns as Manager of the Company and as of the Effective Date no longer has any rights, duties or obligations to the Company, other than as set forth herein.
- 3. Vitus is now the sole Manager of the Company.
- 4. Heritage agrees to fully indemnify, defend and hold the Company and Vitus harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable, out of pocket costs and expenses (including without limitation, reasonable attorneys’ fees) actually incurred by the Company or Vitus to third parties in connection with any liability arising under or solely relating to Heritage’s role as manager arising prior to the Effective Date that constitutes gross negligence, fraud, willful misconduct or in material violation of the Original Agreement or that certain Purchase and Sale Agreement Assignment Agreement entered into by and among Heritage, Vitus and Petersburg East Housing Partners, LP. Notwithstanding the foregoing, the forgoing obligations of Heritage to indemnify, defend, hold harmless and reimburse the Company or Vitus shall not be required in the event that the action giving rise to such obligations

was caused or contributed to by the gross negligence, fraud or willful misconduct of the Company or Vitus.

5. The Company and Vitus agree to fully indemnify, defend and hold Heritage harmless from and against any and all liability, claims, counterclaims, actions, damages, judgments, penalties, and reasonable, out of pocket costs and expenses (including without limitation, reasonable attorneys' fees) actually incurred by Heritage to third parties in connection with any liability arising under or solely relating to the Original Agreement, as amended hereby, arising on or after to the Effective Date, it being understood and agreed that Heritage shall have no liability with respect to the Original Agreement or the Company on and after the Effective Date. Notwithstanding the foregoing, the forgoing obligations of the Company and Vitus to indemnify, defend, hold harmless and reimburse Heritage shall not be required in the event that the action giving rise to such obligations was caused or contributed to by the gross negligence, fraud or willful misconduct of Heritage or if the action giving rise to such obligation was a result of an action or inaction taken by Heritage that was a breach of the Original Agreement or that certain Purchase and Sale Agreement Assignment Agreement entered into by and among Heritage, Vitus and Petersburg East Housing Partners, LP.
6. Executed copies of this Assignment delivered via facsimile or other electronic means, including email, shall be binding upon the parties, and copies of signatures appearing hereon shall be deemed to be original signatures. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date, intending to be legally bound.

**VITUS:**

Vitus Development IV, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Scott O. Langan  
Its: Vice President

**HERITAGE:**

Heritage Realty, LLC, a New York limited liability company

By: \_\_\_\_\_  
Alexander Hajibay  
Its: Managing Member

**COMPANY:**

Petersburg East Housing Management, LLC, a Virginia limited liability company

By: Vitus Development IV, LLC  
Its: Manager

By: \_\_\_\_\_  
Scott O. Langan  
Its: Vice President

**Parcel No: 003-060006**  
 CONSIDERATION: \$4,315,476  
 ASSESSED VALUE: **2,402,200**

THIS INSTRUMENT PREPARED OUTSIDE  
 THE COMMONWEALTH OF VIRGINIA  
 BY AND WHEN RECORDED RETURN TO:

Matthew P. Greeson  
 Reno & Cavanaugh PLLC  
 455 Massachusetts Avenue NW, Suite 400  
 Washington, DC 20001  
 Va. Bar No: 83939

### SPECIAL WARRANTY DEED

This Special Warranty Deed, made and entered into this 1<sup>st</sup> day of April 2021, is by and between Whitehill Estates-I, L.P., a Virginia limited partnership, whose mailing address is P.O. Box 321209, Cocoa Beach, Florida 32932-1209 (“Grantor”), and Petersburg East Housing Partners, LP, a Virginia limited partnership, (“Grantee), whose address is 415 1st Avenue North #19240, Seattle, Washington 98109.

### WITNESETH

#### CONVEYANCE:

THAT for and in consideration of the conveyance made hereby, the consideration received by Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor, subject to the matters described in this Deed, hereby grants and conveys to Grantee, with special warranty, fee simple title to certain real estate located in the City of Petersburg, Commonwealth of Virginia and described on Exhibit A, attached hereto and made a part hereof (the “Real Estate”).

The Real Estate is conveyed subject to those exceptions set forth on Exhibit B, attached hereto and made a part hereof, to the extent they affect the Real Estate or any portion thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
 SEE FOLLOWING PAGE FOR SIGNATURE]

WITNESS the following signature and seal.

**GRANTOR:**

Whitehill Estates-I, L.P., a Virginia limited partnership

By: Whitehill, Inc., its general partner

By: James Kincaid (SEAL)  
Name: James Kincaid  
Title: Vice President

STATE OF FLORIDA

CITY/COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 31st day of March 2021, by James Kincaid

[AFFIX NOTARY SEAL]



JANICE C CHASEY  
Commission # GG 124722  
Expires September 18, 2021  
Bonded Thru Budget Notary Services

Chasey  
Notary Public  
Print Name: Janice Chasey  
My Commission Expires: GG 124722  
Notary Registration No. 9-18-2021



Exhibit "A"

LEGAL DESCRIPTION OF THE PROPERTY

All that certain lot, piece or parcel of land with the appurtenances thereto belonging, lying, situate and being in the City of Petersburg, Virginia, being more particularly described as follows:

That certain tract of land being known as "Petersburg East Apartments, Section I", as shown on that certain "Plat Showing Boundary Line & Utilities Easements, Petersburg East Apartments, Section I, Petersburg Virginia," made by Hugh W. Johnston, Surveyor & Engineer, Portsmouth, Virginia, dated April 7, 1975, which plat is recorded along with that certain deed in Deed Book 334 page 251 and being bounded and described as follows:

Beginning at a point at the southeast intersection of Richmond Avenue and Lakemont Drive; thence, South 89°55'47" East a distance of 187.99 feet along the property adjacent to now or formerly owned by Gatewood Lumber, Inc.; thence South 00°12'31" West, a distance of 431.09 feet; thence South 83°05'49" East, a distance of 164.89 feet; thence North 81°06'45" East, a distance of 45.38 feet to the True Point of Beginning; thence South 00°26'03" West, a distance of 122.48 feet along the property adjacent to now or formerly owned by Whitehill Estate II, L.P.; thence South 89°43'54" East, a distance of 29.88 feet; thence South 00°16'06" West, a distance of 165.33 feet; thence North 89°43'54" West, a distance of 505.00 feet along the Petersburg National Battlefield Park; thence North 00°09'02" East, a distance of 559.00 feet along the Glen Park Subdivision, Section II; thence along the alley North 89°34'59" East, a distance of 80.25 feet; thence North 02°04'04" East, a distance of 20.49 feet; thence along the alley South 89°41'29" West, a distance of 50.79 feet; thence North 00°04'27" East, a distance of 150.00 feet along the property adjacent to the now or formerly owned by George O. Adams to the southbound lane of Richmond Avenue; thence along said road South 89°54'18" East, a distance of 50.01 feet; thence South 89°55'47" East, a distance of 187.99 feet; thence South 00°12'31" West, a distance of 431.09 feet; thence South 83°05'49" East, a distance of 164.89 feet; thence North 81°06'45" East, a distance of 45.38 feet to the True Point of Beginning and containing 5.838 ACRES, more or less.

Exhibit "B"

Permitted Exceptions

1. Rights or claims of tenants.
2. General and special taxes and assessment for 2021 and subsequent years.
3. Easement granted to Virginia Electric and Power Company dated March 5, 1974 and recorded May 23, 1974 in Deed Book 329, Page 22.
4. Easement granted to Virginia Electric and Power Company dated March 5, 1974 and recorded May 23, 1974 in Deed Book 329, Page 25.
5. Conditions, easements, restrictions and reservations as shown on that certain "Plat Showing Boundary Line & Utilities Easements, Petersburg East Apartments, Section I, Petersburg Virginia" made by Hugh W. Johnston, Surveyor & Engineer, Portsmouth, Virginia, dated April 7, 1975, which plat is recorded along with that certain deed in Deed Book 334, Page 251.
6. Easement made by Petersburg East, Section 1 to Virginia Electric and Power Company dated August 27, 1975 and recorded October 2, 1975 in Deed Book 337, Page 247.
7. Plat Showing Boundary Lines for Petersburg East Apartments Section 1 last dated January 28, 1977 and recorded February 10, 1977 in Deed Book 346, Page 559.
8. Extended Use Regulatory Agreement and Declaration of Restrictive Covenants made by and between Whitehill Estates-I, LP and the Virginia Housing Development Authority dated as of July 18, 2003 and recorded June 17, 2004 as Instrument No. 04-002657.
9. Boundary Line Determination as set forth by Quitclaim Deed made by Whitehill Estates-I, LP, a Virginia limited partnership, dated December 22, 2004 and recorded December 28, 2004 as Instrument No, 04-005853.
10. The following matters shown on ALTA/NSPS Land Title Survey dated \_\_\_\_, 202\_\_, last revised \_\_\_\_, 2021, prepared by Blew & Associates, P.A., Job No. 20-69816 ("the Survey"):
  - A. Boundary line of the subject premises within the bed of creek
11. Rights of others in and to the free and unobstructed flow of creek and rights of riparian owners in and to the same.

INSTRUMENT 202101614  
RECORDED IN THE CLERK'S OFFICE OF  
PETERSBURG CIRCUIT COURT ON  
MAY 24, 2021 AT 11:30 AM  
\$4315.50 GRANTOR TAX WAS PAID AS  
REQUIRED BY SEC 58.1-802 OF THE VA. CODE  
STATE: \$2157.75 LOCAL: \$2157.75  
MAYTEE E. PARHAM, CLERK  
RECORDED BY: JSM

**Parcel No: 003-060005**

CONSIDERATION: \$2,934,524

ASSESSED VALUE: **1,615,400**

THIS INSTRUMENT PREPARED OUTSIDE  
THE COMMONWEALTH OF VIRGINIA  
BY AND WHEN RECORDED RETURN TO:

Matthew P. Greeson  
Reno & Cavanaugh PLLC  
455 Massachusetts Avenue NW, Suite 400  
Washington, DC 20001  
Va. Bar No: 83939

### SPECIAL WARRANTY DEED

This Special Warranty Deed, made and entered into this 1st day of April, 2021, is by and between Whitehill Estates-II, L.P., a Virginia limited partnership, whose mailing address is P.O. Box 321209, Cocoa Beach, Florida 32932-1209 (“Grantor”), and Petersburg East Housing Partners, LP, a Virginia limited partnership, (“Grantee”), whose address is 415 1st Avenue North #19240, Seattle, Washington 98109.

### WITNESSETH

#### CONVEYANCE:

THAT for and in consideration of the conveyance made hereby, the consideration received by Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor, subject to the matters described in this Deed, hereby grants and conveys to Grantee, with special warranty, fee simple title to certain real estate located in the City of Petersburg, Commonwealth of Virginia and described on Exhibit A, attached hereto and made a part hereof (the “Real Estate”).

The Real Estate is conveyed subject to those exceptions set forth on Exhibit B, attached hereto and made a part hereof, to the extent they affect the Real Estate or any portion thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SEE FOLLOWING PAGE FOR SIGNATURE]

WITNESS the following signature and seal.

**GRANTOR:**

Whitehill Estates-II, L.P., a Virginia limited partnership

By: Whitehill, Inc., its general partner

By: *James Kincaid* (SEAL)  
Name: James Kincaid  
Title: Vice President

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 31st day of March 2021, by James Kincaid.

[AFFIX NOTARY SEAL]



**JANICE C CHASEY**  
Commission # GG 124722  
Expires September 18, 2021  
Bonded Thru Budget Notary Services

*Janice Chasey*  
Notary Public  
Print Name: Janice Chasey  
My Commission Expires: GG 124722  
Notary Registration No. 9-18-2021

Exhibit "A"

Legal Description of Property

All that certain lot, piece or parcel of land, with the appurtenances thereunto belonging, lying, situate, and being in the City of Petersburg, Virginia, and being more particularly described as follows:

Beginning at a pin at the intersection of the subject property and the property known as Petersburg East, Section One; thence north  $00^{\circ}16'06''$  east, 165.33 feet, thence north  $89^{\circ}43'54''$  west, 29.88 feet, thence north  $00^{\circ}16'06''$  east, 122.30 feet to the property now or formerly owned by Walter R. Saunders; thence north  $81^{\circ}15'52''$  east, 115.75 feet; thence north  $65^{\circ}34'58''$  east, 160.75 feet; thence north  $52^{\circ}59'58''$  east, 312.85 feet; thence continuing north  $52^{\circ}59'58''$  east, a distance of 30 feet, more or less, to the center line of Harrison's Branch; thence running in a southerly direction along and with the center line of Harrison's Branch, following its meanders, a distance of 803 feet, more or less, to the southeast corner of the property hereby conveyed at a point in the center line of Harrison's Branch as indicated on the said Plat; thence north  $89^{\circ}43'54''$  west a distance of 40 feet, more or less, to a monument, in the line of the property of the Petersburg National Military Park; thence along and with the line of the Petersburg National Military Park north  $89^{\circ}43'54''$  west a distance of 321.79 feet to a pin at the point of beginning.

Parcel Identification Number: 003-060005

Together with a perpetual easement of ingress and egress over, across and through the property of Petersburg East Apartments, Section 1 a limited partnership, as contained in Agreement dated August 12, 1976, recorded August 12, 1976 in Deed Book 343, page 195.

Exhibit "B"

Permitted Exceptions

1. Rights or claims of tenants.
2. General and special taxes and assessment for 2021 and subsequent years.
3. Easement granted to Virginia Electric and Power Company dated March 5, 1974 and recorded May 23, 1974 in Deed Book 329, Page 22.
4. Easement granted to Virginia Electric and Power Company dated March 5, 1974 and recorded May 23, 1974 in Deed Book 329, Page 25.
5. Boundary Line Determination as set forth by Quitclaim Deed made by Whitehill Estates-I, L.P., a Virginia limited partnership, dated December 22, 2004 and recorded December 28, 2004 as Instrument No. 04-005853.
6. Utility Easement made by Petersburg East Section II to Virginia Electric and Power Company dated December 2, 1976 and recorded June 8, 1977 in Book 349, Page 444.
7. Utility Easement made by Petersburg East Section II to Virginia Electric and Power Company dated July 3, 1992 and recorded December 14, 1992 in Book 504, Page 331.
8. Plat of Petersburg East – Section I prepared by Resource International, dated November 1, 2004, last revised October 13, 2020. PN 220025.1 shows no encroachments.
9. The following matters shown on ALTA/NSPS Land Title Survey dated \_\_\_\_, 202\_\_, last revised \_\_\_\_, 2021, prepared by Blew & Associates, P.A., Job No. 20-69816;
  - A. Building appears to fall within 15' Utility Easement by as much as 0.5'
  - B. Building appears to fall within 15' Utility Easement by as much as 1.0'
  - C. Fence runs along creek
10. Rights of others in and to the free and unobstructed flow of creek and rights of riparian owners in and to the same.

INSTRUMENT 202101615  
RECORDED IN THE CLERK'S OFFICE OF  
PETERSBURG CIRCUIT COURT ON  
MAY 24, 2021 AT 11:31 AM  
\$2935.00 GRANTOR TAX WAS PAID AS  
REQUIRED BY SEC 58.1-802 OF THE VA. CODE  
STATE: \$1467.50 LOCAL: \$1467.50  
MAYTEE E. PARHAM, CLERK  
RECORDED BY: JSM

2021/2022 REAL ESTATE TAX

MAP#

1ST QUARTER BILL#

PAY NOT

003 060006

8811

LATER THAN

CITY OF PETERSBURG, VIRGINIA

9/30/2021

804-733-2346

Email: CITYCOLLECTOR@PETERSBURG-VA.ORG

(AFTER DUE DATE 10% PENALTY PLUS 10% APR INTEREST IS ADDED)

LAND ASSESSMENT	STRUCTURE ASSESSMENT	TOTAL ASSESSMENT	TAX RATE PER \$100	ANNUAL TAX	*PAST DUE	
400000	2002200	2402200	X 1.350	32429.70	CURRENT QTR.	8107.43
					TOTAL DUE	8107.43

MAKE CHECKS PAYABLE TO: CITY OF PETERSBURG  
P.O. BOX 1271  
PETERSBURG, VA 23804

PETERSBURG EAST HOUSING PARTNE  
415 1ST AVE NORTH #19240  
SEATTLE WA

98109

DESCRIPTION:

5.838 ACRES  
5.838 ACRES

Please allow 7 to 10 business days for your online banking checks to be processed.

\*PAY NOT LATER THAN 9/30/2021

BILLING & COLLECTIONS COPY

2021/2022 REAL ESTATE TAX

MAP#

1ST QUARTER BILL#

PAY NOT

003 060006

8811

LATER THAN

CITY OF PETERSBURG, VIRGINIA

9/30/2021

804-733-2349

Email: CITYCOLLECTOR@PETERSBURG-VA.ORG

(AFTER DUE DATE 10% PENALTY PLUS 10% APR INTEREST IS ADDED)

LAND ASSESSMENT	STRUCTURE ASSESSMENT	TOTAL ASSESSMENT	TAX RATE PER \$100	ANNUAL TAX	*PAST DUE	
400000	2002200	2402200	X 1.350	32429.70	CURRENT QTR.	8107.43
					TOTAL DUE	8107.43

KEEP THIS RECEIPT FOR TAX RECORDS

PETERSBURG EAST HOUSING PARTNE  
415 1ST AVE NORTH #19240  
SEATTLE WA

98109

DESCRIPTION:

5.838 ACRES  
5.838 ACRES

Under VA code 58.1 if unpaid by due date the full delinquent balance  
may become collectible by levy, distress or otherwise.

TAXPAYER'S COPY

2021/2022 REAL ESTATE TAX

MAP#  
003 060005

1ST QUARTER BILL#  
8810

PAY NOT  
LATER THAN  
9/30/2021

CITY OF PETERSBURG, VIRGINIA  
804-733-2346

Email: CITYCOLLECTOR@PETERSBURG-VA.ORG (AFTER DUE DATE 10% PENALTY PLUS 10% APR INTEREST IS ADDED)

LAND ASSESSMENT	STRUCTURE ASSESSMENT	TOTAL ASSESSMENT	TAX RATE PER \$100	ANNUAL TAX	*PAST DUE	
272000	1343400	1615400	X 1.350	21807.90	CURRENT QTR.	5451.98
					TOTAL DUE	5451.98

MAKE CHECKS PAYABLE TO: CITY OF PETERSBURG  
P.O. BOX 1271  
PETERSBURG, VA 23804

PETERSBURG EAST HOUSING PARTNE  
415 1ST AVE NORTH #19240  
SEATTLE WA

98109

**DESCRIPTION:**

202 LAKEMONT DR  
4.762 ACRES PETERSBURG E  
AST SEC 2

**Please allow 7 to 10 business days for your online banking checks to be processed.**

\*PAY NOT LATER THAN 9/30/2021

BILLING & COLLECTIONS COPY

2021/2022 REAL ESTATE TAX

MAP#  
003 060005

1ST QUARTER BILL#  
8810

PAY NOT  
LATER THAN  
9/30/2021

CITY OF PETERSBURG, VIRGINIA  
804-733-2349

Email: CITYCOLLECTOR@PETERSBURG-VA.ORG (AFTER DUE DATE 10% PENALTY PLUS 10% APR INTEREST IS ADDED)

LAND ASSESSMENT	STRUCTURE ASSESSMENT	TOTAL ASSESSMENT	TAX RATE PER \$100	ANNUAL TAX	*PAST DUE	
272000	1343400	1615400	X 1.350	21807.90	CURRENT QTR.	5451.98
					TOTAL DUE	5451.98

**KEEP THIS RECEIPT FOR TAX RECORDS**

PETERSBURG EAST HOUSING PARTNE  
415 1ST AVE NORTH #19240  
SEATTLE WA

98109

**DESCRIPTION:**

202 LAKEMONT DR  
4.762 ACRES PETERSBURG E  
AST SEC 2

**Under VA code 58.1 if unpaid by due date the full delinquent balance may become collectible by levy, distress or otherwise.**

TAXPAYER'S COPY



F

Third-Party RESNET  
Rater Certification  
(MANDATORY)



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## Home Energy Rating (HERS) Report:

### ***Petersburg East***

***Petersburg, VA***



#### **Submitted and Prepared for:**

Vitus Development IV, LLC

Attn: Gavin Taylor

[gavin.taylor@vitus.com](mailto:gavin.taylor@vitus.com)

#### **Submitted and Prepared by:**

Dominion Due Diligence Group (D3G)

Timothy Bryant, NGBS Green Verifier, BPI-MFBA, HERS Rater

Phone: 804.615.2145 (direct)

Email: [t.bryant@d3g.com](mailto:t.bryant@d3g.com)

Kevin Robicheau, NGBS Green Verifier, BPI-MFBA, HERS Rater

Phone: 804.442.7775 (direct)

Email: [k.robicheau@d3g.com](mailto:k.robicheau@d3g.com)



June 8, 2021

Mr. Gavin Taylor  
415 1<sup>st</sup> Avenue North #19240  
Seattle, WA 98109

RE: Home Energy Rating (HERs) Report  
D3G Project #2021-000753  
Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803

Dear Mr. Taylor,

Dominion Due Diligence Group (D3G) respectfully submits this Home Energy Rating System (HERS) report to show the preliminary HERS Index for Petersburg East.

**Scope of Work:**

D3G has provided the following services for this reporting:

1. Comprehensive review of all provided design documentation (i.e. construction drawings and specifications) required to perform accurate whole building energy simulation modeling.
2. Conducted Site inspection and Initial Diagnostic Testing Services on Sampled Units (e.g. Blower Door Infiltration and Duct Leakage testing).
3. Generated energy simulation models to capture subject properties total annual energy consumption to include all fuel sources and provide HERS index.
4. Organize results into a usable summarized final report for VHDA application submission.

**Preliminary HERS Index:**

The simulated annual energy consumption returned the following HERS Index:

	<b>1BD/1BA</b>	<b>2BD/1BA</b>	<b>2BD/2BA Townhouse</b>	<b>3BD/2BA</b>
<b>HERS Index (Existing Condition):</b>	<b>111</b>	<b>114</b>	<b>137</b>	<b>117</b>
<b>VHDA LIHTC 30% Reduction or Max-80 HERS Target:</b>	<b>80</b>	<b>80</b>	<b>80</b>	<b>80</b>
<b>Proposed Post-Rehab HERS Index:</b>	<b>54</b>	<b>54</b>	<b>53</b>	<b>54</b>
<b>HERS improvement (%)</b>	<b>48%</b>	<b>47%</b>	<b>38%</b>	<b>46%</b>



**Building Systems and Assumptions:**

Performance of the energy modeling requires evaluation of existing building systems. Available construction documents and the on-site inspection determined the following existing building characteristics. The following tables detail building systems including: the as-built specification and the energy model assumptions. The tables also identify “proposed rehab options” to improve the HERS score to meet the VHDA LIHTC Requirement of a 30% HERS score improvement or a HERS Index of 80.

Property Description	
Construction Year	1975 & 1976 – Renovations in 2004
Primary function of property	Multifamily Housing
Other property usage types (i.e. retail, restaurants, etc.)	Community Center, Community Laundry, NEW Fitness Center
Number of buildings	19 Two-story Garden Style and Townhome Apt. Bldgs.

Unit Mix		
Unit Type	Count	Gross Floor Area Per Unit*
1-BD 1BA	28	542
2-BD 1BA	60	707
2-BD 2BA TH	28	784
3-BD 2BA	52	1172

*\*Note – The Gross Floor Area per unit excludes non-conditioned spaces such as mechanical rooms and garages*

Property Location & Weather Information	
<i>Weather Data below represents metrics used by RemRate (base 65°F)</i>	
Weather Station - ID	Richmond
Cooling Degree Days (CDD) °F	600
Heating Degree Days (HDD) °F	3729
<i>Setpoint temperatures below are used in energy simulation models</i>	
Heating Setpoint Temperature	70° F
Cooling Setpoint Temperature	75° F
IECC Climate Zone	4A



Diagnostic Testing Results		
Unit Tested	Infiltration (ACH50)	Duct Leakage (CFM Total / To Outside)
1 BD 1 BA	17.4	212 / 320
2 BD 1 BA	14.9	155 / 205
2 BD 2 BA -TH	21.5	170 / 222
3 BD 3 BA	12.8	212 / 286
Average	16.6	187.0 / 258.2

Energy Modeling Inputs		
Building Envelope		
Building Component	As Designed (modeled)	Proposed Rehab Options
Foundation	Slab on Grade – Uninsulated	None
Floors	Tenant Separation Assemblies; Insulated with Standard Attenuation Batt (R-11)	None
Exterior Wall Assemblies	<b>Above Ground Floor:</b> 2x4 Wood Studs with Brick and Vinyl Siding, with R13 Batt Grade III Insulation	<b><i>Suggested to replace at EUL:</i></b> <i>Add Continuous Rigid Insulation to Vinyl Sided Areas</i>
Windows	Double Glazed Vinyl with Thermal Break (U-Factor of 0.46 and SHGC of 0.57) *assumed	<b><i>Suggested to replace at EUL:</i></b> <i>Vinyl Double Glazed (U≤0.35 SHGC≤0.4) or ENERGY STAR Certified</i>
Exterior Doors	Steel Insulated R-1.2	<b>Scope</b> – New Steel Insulated Doors R-4.0+
Ceilings / Roofs	R-38 Blown Insulation Grade I	<b>Scope</b> - Air-Seal Penetrations; <i>Suggested not in scope - Install R49 Blown Insulation Grade I (VHDA – MDCR<sup>1</sup>)</i> <i>Note: IECC 2015 requires R49</i>



<b>Mechanical Systems, Appliances &amp; Lighting (Dwelling Units)</b>		
Dwelling Unit - Heating	Thru-Wall Natural Gas Forced Air Furnace (80 AFUE) – Magic-Pak	<b>Scope</b> – New 95% AFUE Hybrid Furnace and Heat Pump Systems to be Installed; Cooling Efficiencies of 15.5 SEER
Dwelling Unit - Cooling	Thru-Wall Air Conditioner Package (9.7 EER est.)	
Dwelling Unit Ventilation	O.A. Provided by Natural Ventilation	<b><i>Suggested to replace at EUL: ENERGY STAR Exhaust Fans if Air Infiltration Tests less than 5.0 ACH50</i></b>
Dwelling Unit DHW	40 Gallon Natural Gas Direct Vent Storage EF=0.59	<b>Scope</b> - 40 Gallon Natural Gas Storage to be Installed EF= ≥0.93
Water Fixtures	Inefficient High Flow	<b>Scope</b> - EPA Water Sense Fixtures to be Installed
Dwelling Unit Kitchen Appliances	18 cu. Ft. Refrigerator w/ Top-Freezer (est. age 10+ yrs.), Dishwasher and Gas Ranges	<b>Scope</b> - ENERGY STAR Appliances to be Installed: Refrigerator 399 KWH/yr Dishwasher 270 KWH/yr
Dwelling Unit Laundry Appliances	Stacked Laundry Center (Gas Dryer)	<b><i>Suggested to replace at EUL: ENERGY STAR Appliances</i></b>
Dwelling Unit Lighting	Approximately 85% Incandescent, 15% Fluorescent	<b>Scope</b> - 100% LED ENERGY STAR Qualified Lighting to be Installed
<b>Mechanical Systems, Appliances &amp; Lighting (Common Area)</b>		
Exterior Lighting	100% Fluorescent	<b>Scope</b> - 100% LED
<b>Air Tightness Performance Goals</b>		
Building Envelope Air Tightness	16.6 ACH50	<b>Scope</b> - Advanced Air Sealing Resulting in Air Tightness of 7 ACH50
Duct leakage	Ducts Within Soffits Average LTO = 187.0 CFM 25	<b>Scope</b> - Duct work should be adequately sealed with leakage to outside of less than or equal to 4% AF

*\*Note – The components listed in this table are only a summary of the largest energy consuming components at the property. In many cases there are additional components used in the energy simulation models that are not listed in this table.*

<sup>1</sup> VHDA 2019 Minimum Design and Construction Requirements



**Purpose:**

The HERS Index that was generated for this report is a preliminary study of the subject properties energy design to simulate annual energy consumption. The HERS Index is a measurement system for homes based on their energy performance. A lower score means a more energy efficient home, and that means higher energy savings and lower energy bills. A score of 100 indicates that the property performs at the same level as a home built to the 2004/2006 International Energy Conservation Code (IECC).

**Limitations:**

The energy modeling and HERS scoring process is contingent upon the building design parameters, diagnostic testing results and energy modeling assumptions. Please be advised that any changes to the scope of the design may impact projected energy consumption and score. Energy models make assumptions regarding tenant behavior, private plug-load usage, heating and cooling setpoint temperatures and other non-design variables which will affect actual energy consumption and score. The HERS Index is contingent upon a controlled construction process supervised by an energy professional and verified/ commissioned by a qualified professional. D3G assumes no liability should we not be involved in the construction, monitoring, and verification process of the proposed energy efficient construction project.

Sincerely,

Timothy Bryant, NGBS Green Verifier, BPI-MFBA, HERS Rater

---

Signature

Kevin Robicheau, NGBS Green Verifier, BPI-MFBA, HERS Rater

---

Signature



Attachments:

- A. Pre-Rehab HERS Index and Proposed Rehab HERS Index
- B. Overview of HERS Index
- C. Tectite Infiltration / Blower Door Testing Results
- D. TECBlast Duct Leakage Test Results
- E. Photo Log





## Appendix A

Pre-Rehab HERS Index and Proposed Rehab HERS Index

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:

Certified Energy Rater: Kevin Robicheau  
Rating Number: 1 bed 1 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 111**

## General Information

Conditioned Area	542 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	4882 cubic ft.	Foundation	Slab
Bedrooms	1		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.59 EF, 40.0 Gal.
Heating:	Fuel-fired air distribution, Natural gas, 80.0 AFUE.
Cooling:	Air conditioner, Electric, 9.7 EER.
Duct Leakage to Outside	212.00 CFM25
Ventilation System	None
Programmable Thermostat	Heat=No; Cool=No

## Building Shell Features

Ceiling Flat	NA	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	1414 CFM50 (17.38 ACH50)
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	20.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	0.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	550	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	410	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	3.0	\$35	3%
Cooling	3.3	\$116	11%
Hot Water	15.8	\$173	17%
Lights/Appliances	15.8	\$455	45%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	24%
<b>Total</b>	<b>38.0</b>	<b>\$1019</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

This information does not constitute any warranty of energy costs or savings. © 1985-2021 NORESKO, Boulder, Colorado.  
The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:

Certified Energy Rater: Kevin Robicheau  
Rating Number: 2 bed 1 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 114**

## General Information

Conditioned Area	707 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	6365 cubic ft.	Foundation	Slab
Bedrooms	2		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.59 EF, 40.0 Gal.
Heating:	Fuel-fired air distribution, Natural gas, 80.0 AFUE.
Cooling:	Air conditioner, Electric, 9.7 EER.
Duct Leakage to Outside	155.54 CFM25
Ventilation System	None
Programmable Thermostat	Heat=No; Cool=No

## Building Shell Features

Ceiling Flat	NA	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	1582 CFM50 (14.91 ACH50)
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	20.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	0.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	550	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	410	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	4.8	\$55	5%
Cooling	4.4	\$155	13%
Hot Water	21.4	\$233	19%
Lights/Appliances	18.5	\$535	44%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	20%
<b>Total</b>	<b>49.2</b>	<b>\$1218</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

This information does not constitute any warranty of energy costs or savings. © 1985-2021 NORESCO, Boulder, Colorado.  
The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:

Certified Energy Rater: Kevin Robicheau  
Rating Number: 2 bed 2 bath townhouse

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 137**

## General Information

Conditioned Area	784 sq. ft.	House Type	Townhouse, inside unit
Conditioned Volume	6690 cubic ft.	Foundation	Slab
Bedrooms	2		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.59 EF, 40.0 Gal.
Heating:	Fuel-fired air distribution, Natural gas, 80.0 AFUE.
Cooling:	Air conditioner, Electric, 9.7 EER.
Duct Leakage to Outside	170.00 CFM25
Ventilation System	None
Programmable Thermostat	Heat=No; Cool=No

## Building Shell Features

Ceiling Flat	R-19.0	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	2407 CFM50 (21.59 ACH50)
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	20.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	0.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	550	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	410	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	19.1	\$218	15%
Cooling	4.7	\$166	12%
Hot Water	21.5	\$234	17%
Lights/Appliances	19.0	\$550	39%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	17%
<b>Total</b>	<b>64.3</b>	<b>\$1408</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:  
Certified Energy Rater: Kevin Robicheau  
Rating Number: 3 bed 2 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 117**

## General Information

Conditioned Area	1172 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	9378 cubic ft.	Foundation	Apt above enclosed space
Bedrooms	3		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.59 EF, 40.0 Gal.
Heating:	Fuel-fired air distribution, Natural gas, 80.0 AFUE.
Cooling:	Air conditioner, Electric, 9.7 EER.
Duct Leakage to Outside	212.00 CFM25
Ventilation System	None
Programmable Thermostat	Heat=No; Cool=No

## Building Shell Features

Ceiling Flat	R-19.0	Slab	None
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	1999 CFM50 (12.79 ACH50)
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	20.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	0.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	550	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	410	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	11.5	\$131	8%
Cooling	7.5	\$264	17%
Hot Water	24.8	\$271	17%
Lights/Appliances	23.0	\$675	43%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	15%
<b>Total</b>	<b>66.8</b>	<b>\$1580</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:  
Certified Energy Rater: Kevin Robicheau  
Rating Number: 1 bed 1 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 54**

## General Information

Conditioned Area	542 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	4882 cubic ft.	Foundation	Slab
Bedrooms	1		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.93 EF, 40.0 Gal.
Dual-fuel heat pump:	Electric/Natural gas, 8.5 HSPF, 15.5 SEER, 95.0 AFUE.
Duct Leakage to Outside	21.68 CFM25
Ventilation System	None
Programmable Thermostat	Heat=Yes; Cool=Yes

## Building Shell Features

Ceiling Flat	NA	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	7.00 ACH50
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	0.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	100.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	396	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	270	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	1.7	\$42	7%
Cooling	1.0	\$37	6%
Hot Water	5.4	\$59	9%
Lights/Appliances	10.4	\$265	41%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	37%
<b>Total</b>	<b>18.6</b>	<b>\$643</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:  
Certified Energy Rater: Kevin Robicheau  
Rating Number: 2 bed 1 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 54**

## General Information

Conditioned Area	707 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	6365 cubic ft.	Foundation	Slab
Bedrooms	2		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.93 EF, 40.0 Gal.
Dual-fuel heat pump:	Electric/Natural gas, 8.5 HSPF, 15.5 SEER, 95.0 AFUE.
Duct Leakage to Outside	28.28 CFM25
Ventilation System	None
Programmable Thermostat	Heat=Yes; Cool=Yes

## Building Shell Features

Ceiling Flat	NA	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	7.00 ACH50
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	0.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	100.0	Clothes Dryer Fuel	Natural gas
Refrigerator (kWh/yr)	396	Clothes Dryer CEF	3.30
Dishwasher (kWh/yr)	270	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	2.9	\$62	8%
Cooling	1.6	\$58	8%
Hot Water	7.2	\$79	11%
Lights/Appliances	12.1	\$309	41%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	32%
<b>Total</b>	<b>23.9</b>	<b>\$747</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.

# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:

Certified Energy Rater: Kevin Robicheau  
Rating Number: 2 bed 2 bath townhouse

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 53**

## General Information

Conditioned Area	784 sq. ft.	House Type	Townhouse, inside unit
Conditioned Volume	6690 cubic ft.	Foundation	Slab
Bedrooms	2		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.93 EF, 40.0 Gal.
Dual-fuel heat pump:	Electric/Natural gas, 8.5 HSPF, 15.5 SEER, 95.0 AFUE.
Duct Leakage to Outside	31.36 CFM25
Ventilation System	None
Programmable Thermostat	Heat=Yes; Cool=Yes

## Building Shell Features

Ceiling Flat	R-38.0	Slab	R-0.0 Edge, R-0.0 Under
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	7.00 ACH50
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	0.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	100.0	Clothes Dryer Fuel	Electric
Refrigerator (kWh/yr)	396	Clothes Dryer CEF	3.73
Dishwasher (kWh/yr)	270	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	3.9	\$74	9%
Cooling	1.5	\$54	7%
Hot Water	7.2	\$79	10%
Lights/Appliances	11.9	\$352	44%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	30%
<b>Total</b>	<b>24.6</b>	<b>\$799</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.



# Home Energy Rating Certificate

Property  
WHITEHILL ESTATES  
110 Croatan Drive  
Petersburg, VA 23803

HERS  
Rating Type: ProjectedWorstCase  
Rating Date: 2020/10/12  
Registry ID:  
Certified Energy Rater: Kevin Robicheau  
Rating Number: 3 bed 2 bath

**Projected Rating: Based on Plans - Field Confirmation Required.**

**HERS Index: 54**

## General Information

Conditioned Area	1172 sq. ft.	House Type	Apartment, end unit
Conditioned Volume	9378 cubic ft.	Foundation	Apt above enclosed space
Bedrooms	3		

## Mechanical Systems Features

Water Heating:	Conventional, Natural gas, 0.93 EF, 40.0 Gal.
Dual-fuel heat pump:	Electric/Natural gas, 8.5 HSPF, 15.5 SEER, 95.0 AFUE.
Duct Leakage to Outside	46.88 CFM25
Ventilation System	None
Programmable Thermostat	Heat=Yes; Cool=Yes

## Building Shell Features

Ceiling Flat	R-38.0	Slab	None
Sealed Attic	NA	Exposed Floor	NA
Vaulted Ceiling	NA	Window Type	U-Value: 0.460, SHGC: 0.570
Above Grade Walls	R-13.0	Infiltration Rate	7.00 ACH50
Foundation Walls	NA	Method	Blower door

## Lights and Appliance Features

Interior Fluor Lighting (%)	0.0	Range/Oven Fuel	Natural gas
Interior LED Lighting (%)	100.0	Clothes Dryer Fuel	Electric
Refrigerator (kWh/yr)	396	Clothes Dryer CEF	3.73
Dishwasher (kWh/yr)	270	Ceiling Fan (cfm/Watt)	0.00

## Estimated Annual Energy Cost

Use	MMBtu	Cost	Percent
Heating	5.8	\$105	11%
Cooling	3.2	\$111	11%
Hot Water	9.0	\$98	10%
Lights/Appliances	14.4	\$431	44%
Photovoltaics	0.0	\$0	0%
Service Charges		\$240	24%
<b>Total</b>	<b>32.3</b>	<b>\$985</b>	<b>100%</b>

## Criteria

This home meets or exceeds the minimum criteria for the following:

TITLE  
Company  
Address  
City, State, Zip  
Phone #  
Fax #

**REM/Rate - Residential Energy Analysis and Rating Software v16.1**

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The Home Energy Rating Standard Disclosure for this home is available from the rating provider.



Appendix B  
Overview of HERS Index

## One Number That Says It All!

Like a miles-per-gallon (MPG) label for houses, the HERS Index Score is the one number that tells you how energy efficient a home is compared to other homes.

- ▶ Compare homes based on energy performance
- ▶ Know what the projected energy costs are for the home you want to buy
- ▶ Enjoy peace of mind by knowing the home was rated by a certified RESNET HERS Rater



## What Is RESNET?

The Residential Energy Services Network (RESNET) is the independent, national non-profit organization that homeowners trust to improve home energy efficiency and realize substantial savings on their utility bills. It is the organization responsible for creating the national training and certification standards for Home Energy Rating System (HERS) Raters.

To qualify as a certified RESNET Rater, home energy professionals must first complete the rigorous training and testing required, and agree to abide by the RESNET Code of Ethics and Standards of Practice.

RESNET's industry-leading standards are recognized by the U.S. Department of Energy, U.S. Environmental Protection Agency, and the U.S. mortgage industry.

For more information about RESNET visit

[www.resnet.us](http://www.resnet.us)

Insert company information here and more about their HERS rated energy efficient homes.



## THE HERS INDEX SCORE

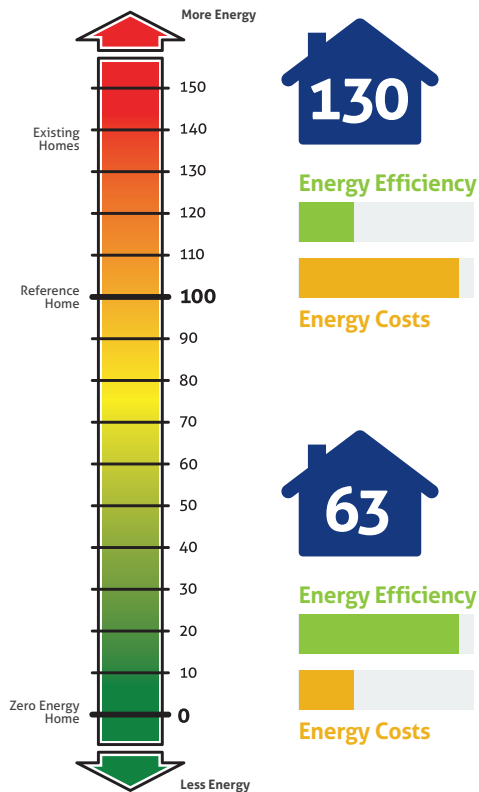
It's what smart homebuyers ask for.



# HERS Index

The energy score that tells you more.

The HERS Index Score is a measurement system for homes based on their energy performance. A lower score means a more energy efficient home, and that means higher energy savings and lower energy bills for you!



Learn more about the HERS Index at [www.hersindex.com](http://www.hersindex.com)

## What Is the HERS Index?

Developed by the Residential Energy Services Network (RESNET), the Home Energy Rating System (HERS) Index is an easy-to-understand energy efficiency measuring tool that assigns a numerical value to homes based on energy performance. The lower the score, the more energy efficient the home. It's like a miles-per-gallon label for houses.

## Why Ask for the HERS Index Score?

- ▶ Compare homes based on their energy scores
- ▶ Get an idea of a home's projected energy costs before you buy
- ▶ Easily identify energy efficient homes

Energy efficient homes generate lower energy costs, are more comfortable to live in and enjoy higher resale values. Ask for the HERS Index Score before you buy! Visit [hersindex.com](http://hersindex.com) to learn more about RESNET's HERS Index.

Insert short company advertising blurb about how they're building/selling HERS rated homes.

## A Lower Score Saves You More

Outside of a mortgage loan, the highest cost of homeownership is energy. That's why smart homebuyers ask for a home's HERS Index Score to learn about its energy efficiency before buying. The HERS Index Score is like a MPG (miles-per-gallon) label for homes. With one number, you can compare between homes, and identify ways to improve an existing home's energy performance.

How it works is an independent and certified RESNET HERS Rater inspects and tests a home's energy features. The information is entered into sophisticated HERS rating software, which issues a HERS Index Score. The lower the HERS Index Score, the lower the energy costs will be. And lower energy costs means you can put more money into other things, like your mortgage loan.



Before you decide to buy that new home, be a smart homebuyer and ask for the HERS Index Score!





## Appendix C

### Tectite Infiltration / Blower Door Testing Results

# BUILDING LEAKAGE TEST

Date of Test: 6/4/2021 Test File: 1 bed 1 bath

Technician: Kevin Robicheau

Project Number: n/a

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 1 bedroom 1 bathroom

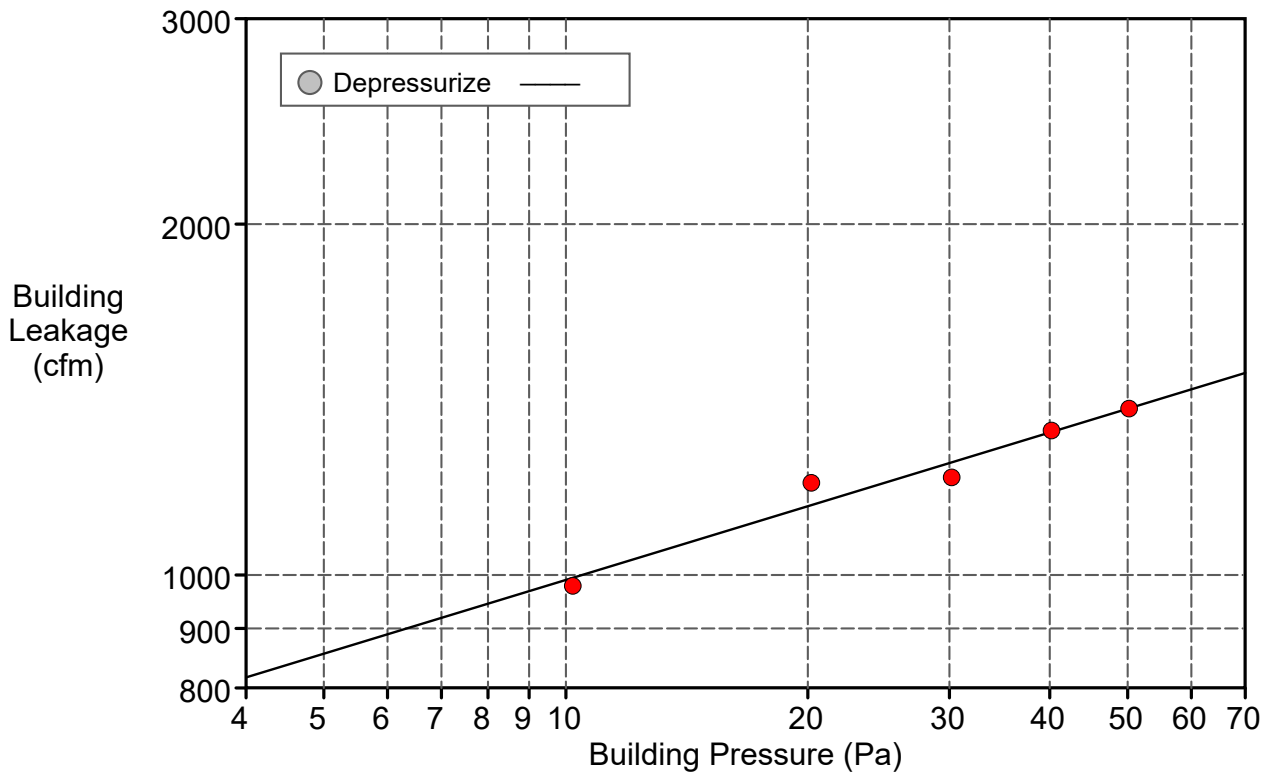
## Test Results at 50 Pascals:

cfm50 Airflow	1389 (+/- 6.9 %)
ACH50	17.07
cfm/ft <sup>2</sup> (Floor Area)	2.5627
cfm/ft <sup>2</sup> (Surface Area)	1.0652

**Leakage Areas:** 291.0 in<sup>2</sup> (+/- 9.1 %) Canadian EqLA @ 10 Pa or 0.2231 in<sup>2</sup>/ft<sup>2</sup> Surface Area  
231.8 in<sup>2</sup> (+/- 16.0 %) LBL ELA @ 4 Pa or 0.1778 in<sup>2</sup>/ft<sup>2</sup> Surface Area

**Building Leakage Curve:** Flow Coefficient (C) = 610.5 (+/- 26.9 %)  
Exponent (n) = 0.210 (+/- 0.081)  
Correlation Coefficient = 0.97858

Test Standard: E779-10  
Test Mode: Depressurization



**BUILDING LEAKAGE TEST Page 2 of 4**

Date of Test: 6/4/2021 Test File: 1 bed 1 bath

---

**Building Information**

<b>Volume (ft<sup>3</sup>)</b>	4882
<b>Surface Area: (ft<sup>2</sup>)</b>	1304
<b>Floor Area: (ft<sup>2</sup>)</b>	542
<b>Height (ft)</b>	8
<b>Year of Construction</b>	1975

**Equipment Information**

<b>Type</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Serial Number</b>	<b>Custom Calibration Date</b>
<b>Fan</b>	Energy Conservatory	Model 3 (110V)		-
<b>Micromanometer</b>	Energy Conservatory	DG1000		

## BUILDING LEAKAGE TEST Page 3 of 4

Date of Test: 6/4/2021 Test File: 1 bed 1 bath

---

### Depressurization Test:

#### Environmental Data

	Indoor Temperature (°F)	Outdoor Temperature (°F)	Altitude (ft)
Pre-Test	79.0	82.0	
Post-Test	79.0	83.0	
Average	79.0	82.5	131.0

### Data Points - Data Entered Manually (TTE 5.0.8.4)

Nominal Building Pressure (Pa)	Baseline adjusted Building Pressure (Pa)	Fan Pressure (Pa)	Nominal Flow (cfm)	Adjusted Flow (cfm)	% Error	Fan Configuration
0.3	n/a	n/a				
-10.0	-10.2	29.9	997	979	-1.6	Ring A
-20.0	-20.2	45.4	1222	1200	4.5	Ring A
-30.0	-30.2	46.4	1235	1213	-2.9	Ring A
-40.0	-40.2	56.1	1354	1330	0.3	Ring A
-50.0	-50.2	61.3	1414	1389	-0.1	Ring A
0.1	n/a	n/a				

---

### Deviations from Standard ASTM E779-10 - Test Parameters

- n value (0.210) outside of acceptable limits ( $0.5 \leq n \leq 1$ ).
  - Correlation coefficient (0.979) outside of acceptable limits.
  - Pressurization test not included.
-



**BUILDING LEAKAGE TEST Page 4 of 4**

Date of Test: 6/4/2021 Test File: 1 bed 1 bath

---

**Comments**

None

---

# BUILDING LEAKAGE TEST

Date of Test: 6/4/2021 Test File: 2 bed 1 bath

Technician: Kevin Robicheau

Project Number: n/a

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 2 bedroom 1 bathroom

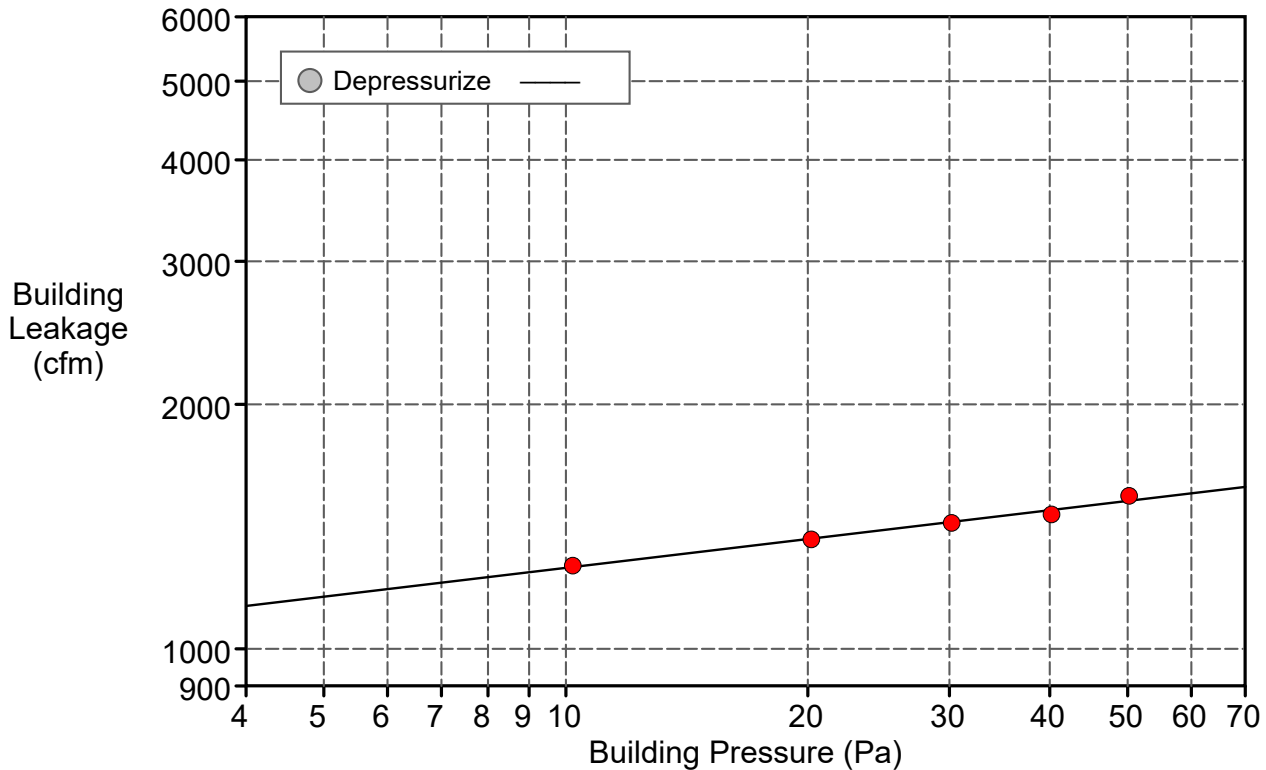
## Test Results at 50 Pascals:

cfm50 Airflow	1521 (+/- 2.4 %)
ACH50	14.34
cfm/ft <sup>2</sup> (Floor Area)	2.1513
cfm/ft <sup>2</sup> (Surface Area)	0.8005

**Leakage Areas:** 369.7 in<sup>2</sup> (+/- 3.2 %) Canadian EqLA @ 10 Pa or 0.1946 in<sup>2</sup>/ft<sup>2</sup> Surface Area  
320.5 in<sup>2</sup> (+/- 5.6 %) LBL ELA @ 4 Pa or 0.1687 in<sup>2</sup>/ft<sup>2</sup> Surface Area

**Building Leakage Curve:** Flow Coefficient (C) = 959.3 (+/- 9.4 %)  
Exponent (n) = 0.118 (+/- 0.028)  
Correlation Coefficient = 0.99147

Test Standard: E779-10  
Test Mode: Depressurization



## BUILDING LEAKAGE TEST Page 2 of 4

Date of Test: 6/4/2021 Test File: 2 bed 1 bath

---

### Building Information

<b>Volume (ft<sup>3</sup>)</b>	6365
<b>Surface Area: (ft<sup>2</sup>)</b>	1900
<b>Floor Area: (ft<sup>2</sup>)</b>	707
<b>Height (ft)</b>	8
<b>Year of Construction</b>	1975

### Equipment Information

<b>Type</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Serial Number</b>	<b>Custom Calibration Date</b>
<b>Fan</b>	Energy Conservatory	Model 3 (110V)		-
<b>Micromanometer</b>	Energy Conservatory	DG1000		

## BUILDING LEAKAGE TEST Page 3 of 4

Date of Test: 6/4/2021 Test File: 2 bed 1 bath

---

### Depressurization Test:

#### Environmental Data

	Indoor Temperature (°F)	Outdoor Temperature (°F)	Altitude (ft)
Pre-Test	79.0	82.0	
Post-Test	79.0	83.0	
Average	79.0	82.5	131.0

### Data Points - Data Entered Manually (TTE 5.0.8.4)

Nominal Building Pressure (Pa)	Baseline adjusted Building Pressure (Pa)	Fan Pressure (Pa)	Nominal Flow (cfm)	Adjusted Flow (cfm)	% Error	Fan Configuration
0.3	n/a	n/a				
-10.0	-10.2	51.4	1298	1266	0.4	Ring A
-20.0	-20.2	59.9	1398	1364	-0.2	Ring A
-30.0	-30.2	65.9	1465	1429	-0.3	Ring A
-40.0	-40.2	69.2	1500	1464	-1.3	Ring A
-50.0	-50.2	77.1	1582	1543	1.4	Ring A
0.1	n/a	n/a				

---

### Deviations from Standard ASTM E779-10 - Test Parameters

- n value (0.118) outside of acceptable limits ( $0.5 \leq n \leq 1$ ).
  - Pressurization test not included.
-

**BUILDING LEAKAGE TEST Page 4 of 4**

Date of Test: 6/4/2021 Test File: 2 bed 1 bath

---

**Comments**

None

---

# BUILDING LEAKAGE TEST

Date of Test: 6/4/2021 Test File: 2 bed 2 bath th

Technician: Kevin Robicheau

Project Number: n/a

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 2 bedroom 2 bathroom th

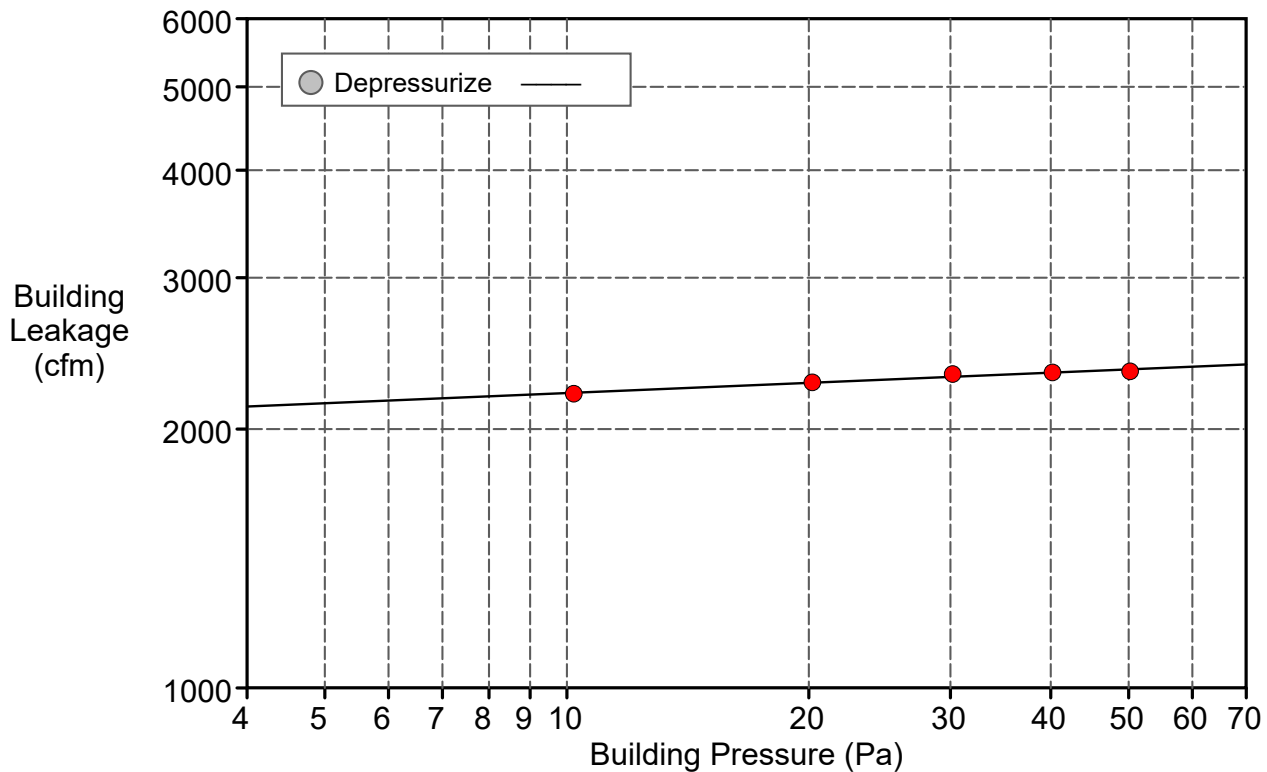
## Test Results at 50 Pascals:

cfm50 Airflow	2347 (+/- 1.2 %)
ACH50	21.05
cfm/ft <sup>2</sup> (Floor Area)	2.9935
cfm/ft <sup>2</sup> (Surface Area)	1.6504

**Leakage Areas:** or 0.2600 in<sup>2</sup>/ft<sup>2</sup> Surface Area  
or 0.2254 in<sup>2</sup>/ft<sup>2</sup> Surface Area

**Building Leakage Curve:** Flow Coefficient (C) = 2012.2 (+/- 4.7 %)  
Exponent (n) = 0.039 (+/- 0.014)  
Correlation Coefficient = 0.98122

Test Standard: E779-10  
Test Mode: Depressurization



**BUILDING LEAKAGE TEST Page 2 of 4**

Date of Test: 6/4/2021 Test File: 2 bed 2 bath th

---

**Building Information**

<b>Volume (ft<sup>3</sup>)</b>	6690
<b>Surface Area: (ft<sup>2</sup>)</b>	1422
<b>Floor Area: (ft<sup>2</sup>)</b>	784
<b>Height (ft)</b>	8
<b>Year of Construction</b>	1975

**Equipment Information**

<b>Type</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Serial Number</b>	<b>Custom Calibration Date</b>
<b>Fan</b>	Energy Conservatory	Model 3 (110V)		-
<b>Micromanometer</b>	Energy Conservatory	DG1000		

## BUILDING LEAKAGE TEST Page 3 of 4

Date of Test: 6/4/2021 Test File: 2 bed 2 bath th

---

### Depressurization Test:

#### Environmental Data

	Indoor Temperature (°F)	Outdoor Temperature (°F)	Altitude (ft)
Pre-Test	79.0	82.0	
Post-Test	79.0	83.0	
Average	79.0	82.5	131.0

### Data Points - Data Entered Manually (TTE 5.0.8.4)

Nominal Building Pressure (Pa)	Baseline adjusted Building Pressure (Pa)	Fan Pressure (Pa)	Nominal Flow (cfm)	Adjusted Flow (cfm)	% Error	Fan Configuration
0.3	n/a	n/a				
-10.0	-10.2	161.3	2267	2198	-0.3	Ring A
-20.0	-20.2	171.7	2337	2266	0.1	Ring A
-30.0	-30.2	179.8	2390	2318	0.7	Ring A
-40.0	-40.2	181.3	2400	2327	0.0	Ring A
-50.0	-50.2	182.4	2407	2334	-0.6	Ring A
0.1	n/a	n/a				

---

### Deviations from Standard ASTM E779-10 - Test Parameters

- n value (0.039) outside of acceptable limits ( $0.5 \leq n \leq 1$ ).
  - Correlation coefficient (0.981) outside of acceptable limits.
  - Pressurization test not included.
-



**BUILDING LEAKAGE TEST Page 4 of 4**

Date of Test: 6/4/2021 Test File: 2 bed 2 bath th

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**Comments**

None

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# BUILDING LEAKAGE TEST

Date of Test: 6/4/2021 Test File: 3 bed 2 bath

Technician: Kevin Robicheau

Project Number: n/a

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 3 bedroom 2 bathroom

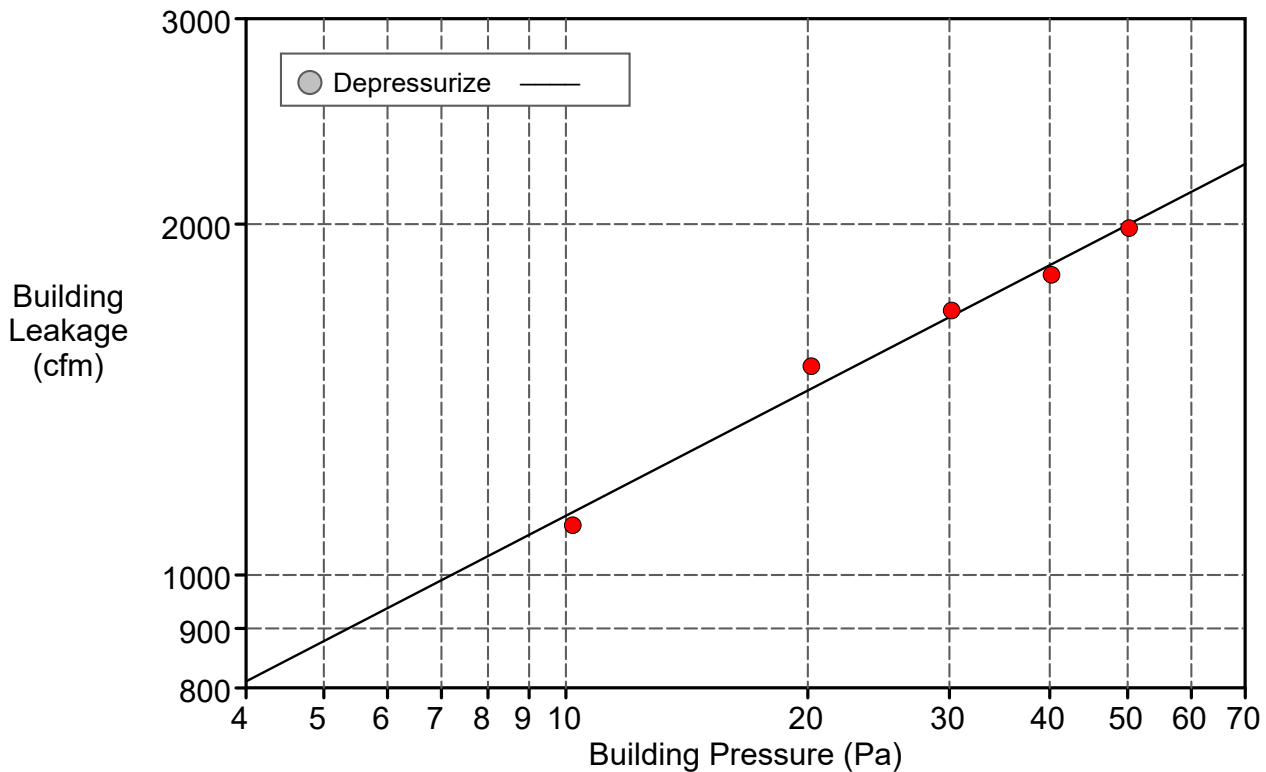
## Test Results at 50 Pascals:

cfm50 Airflow	1997 (+/- 7.1 %)
ACH50	12.78
cfm/ft <sup>2</sup> (Floor Area)	1.7042
cfm/ft <sup>2</sup> (Surface Area)	1.1526

**Leakage Areas:** 330.3 in<sup>2</sup> (+/- 9.3 %) Canadian EqLA @ 10 Pa or 0.1906 in<sup>2</sup>/ft<sup>2</sup> Surface Area  
230.0 in<sup>2</sup> (+/- 16.3 %) LBL ELA @ 4 Pa or 0.1327 in<sup>2</sup>/ft<sup>2</sup> Surface Area

**Building Leakage Curve:** Flow Coefficient (C) = 494.0 (+/- 27.5 %)  
Exponent (n) = 0.357 (+/- 0.083)  
Correlation Coefficient = 0.99209

Test Standard: E779-10  
Test Mode: Depressurization



**BUILDING LEAKAGE TEST Page 2 of 4**

Date of Test: 6/4/2021 Test File: 3 bed 2 bath

---

**Building Information**

<b>Volume (ft<sup>3</sup>)</b>	9378
<b>Surface Area: (ft<sup>2</sup>)</b>	1733
<b>Floor Area: (ft<sup>2</sup>)</b>	1172
<b>Height (ft)</b>	8
<b>Year of Construction</b>	1975

**Equipment Information**

<b>Type</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Serial Number</b>	<b>Custom Calibration Date</b>
<b>Fan</b>	Energy Conservatory	Model 3 (110V)		-
<b>Micromanometer</b>	Energy Conservatory	DG1000		

## BUILDING LEAKAGE TEST Page 3 of 4

Date of Test: 6/4/2021 Test File: 3 bed 2 bath

---

### Depressurization Test:

#### Environmental Data

	Indoor Temperature (°F)	Outdoor Temperature (°F)	Altitude (ft)
Pre-Test	79.0	82.0	
Post-Test	79.0	83.0	
Average	79.0	82.5	131.0

### Data Points - Data Entered Manually (TTE 5.0.8.4)

Nominal Building Pressure (Pa)	Baseline adjusted Building Pressure (Pa)	Fan Pressure (Pa)	Nominal Flow (cfm)	Adjusted Flow (cfm)	% Error	Fan Configuration
0.3	n/a	n/a				
-10.0	-10.2	37.4	1112	1103	-2.5	Ring A
-20.0	-20.2	71.2	1521	1510	4.5	Ring A
-30.0	-30.2	89.2	1698	1686	1.1	Ring A
-40.0	-40.2	103.1	1822	1809	-2.1	Ring A
-50.0	-50.2	124.6	1999	1984	-0.8	Ring A
0.1	n/a	n/a				

---

### Deviations from Standard ASTM E779-10 - Test Parameters

- n value (0.357) outside of acceptable limits ( $0.5 \leq n \leq 1$ ).
  - Pressurization test not included.
-

**BUILDING LEAKAGE TEST Page 4 of 4**

Date of Test: 6/4/2021 Test File: 3 bed 2 bath

---

**Comments**

None

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Appendix D

TECBLAST - Duct Leakage Testing Results



## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom

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### Data Points - Data Entered Manually:

Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
-25.0	26.7	212	0.0	Ring 1

---

### Comments



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Outside Leakage (Combined Duct Blaster and Blower Door Test)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>212.0 CFM (40.0 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>24.9 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>39.1 %</b>

---

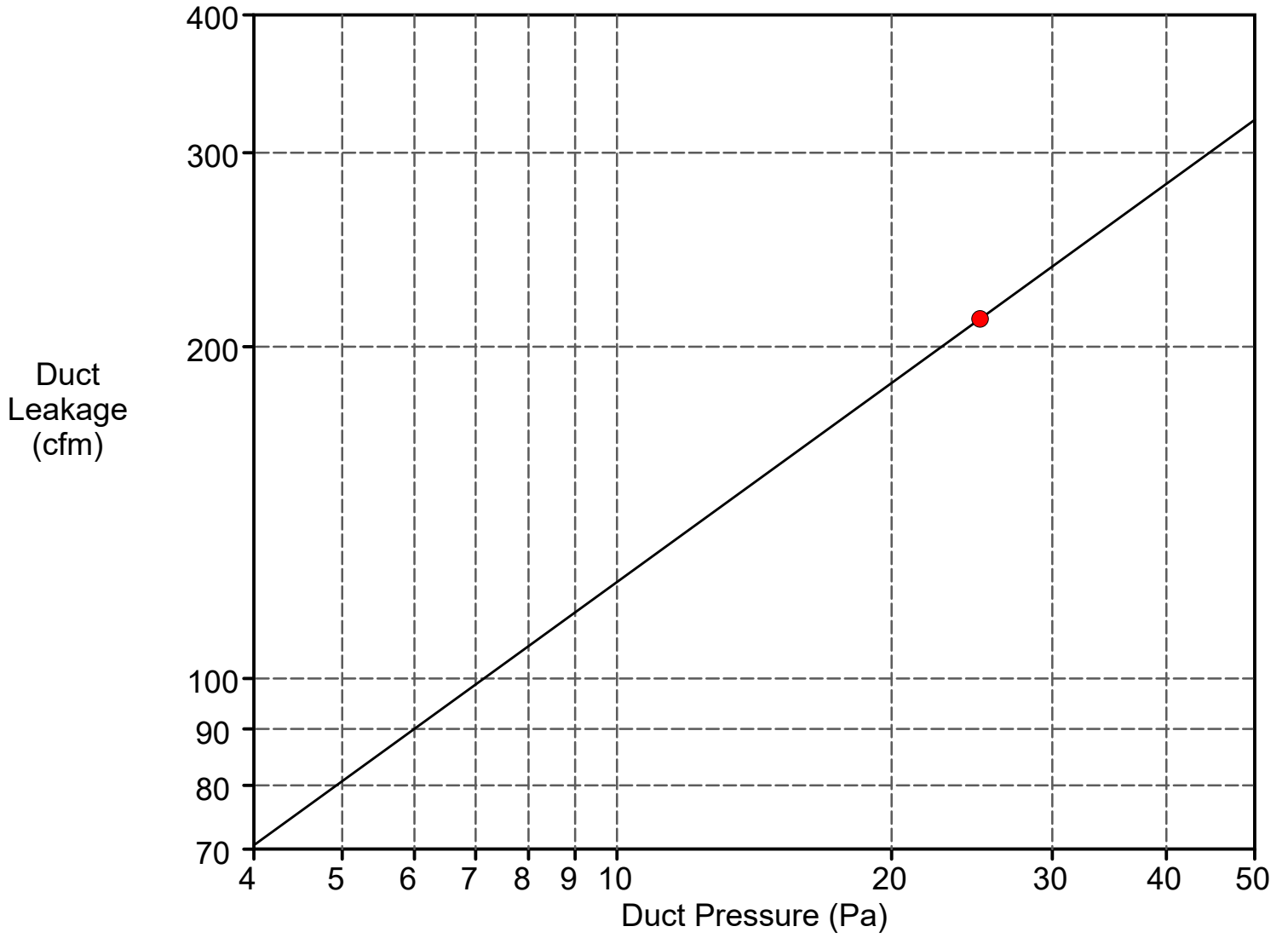
## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Total Leakage (Duct Blaster Only)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>319.9 CFM (60.4 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>37.6 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>59.0 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

# DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 1 bedroom 1 bathroom

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 1 bedroom 1 bathroom

---

## Test Results

1. Measured Duct Leakage: **319.9 CFM / 60.4 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **37.6 %**
  3. Duct Leakage as a Percent of Building Floor Area: **59.0 %**
  4. Leakage Split:                      Supply Side:  
  Return Side:
  5. Duct Leakage Curve:              Flow Coefficient (C): **46.4**  
  Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings:                      Test Mode: **Depressurization**  
  Test Pressure: **25.0 Pa**  
  Equipment: **Series B Minneapolis Duct Blaster**  
  Test Type: **Total Leakage**  
  **(Duct Blaster Only)**
- 

## Building and System Parameters:

Floor Area:	<b>542 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (319.9 CFM)**

## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom

---

### Data Points - Data Entered Manually:

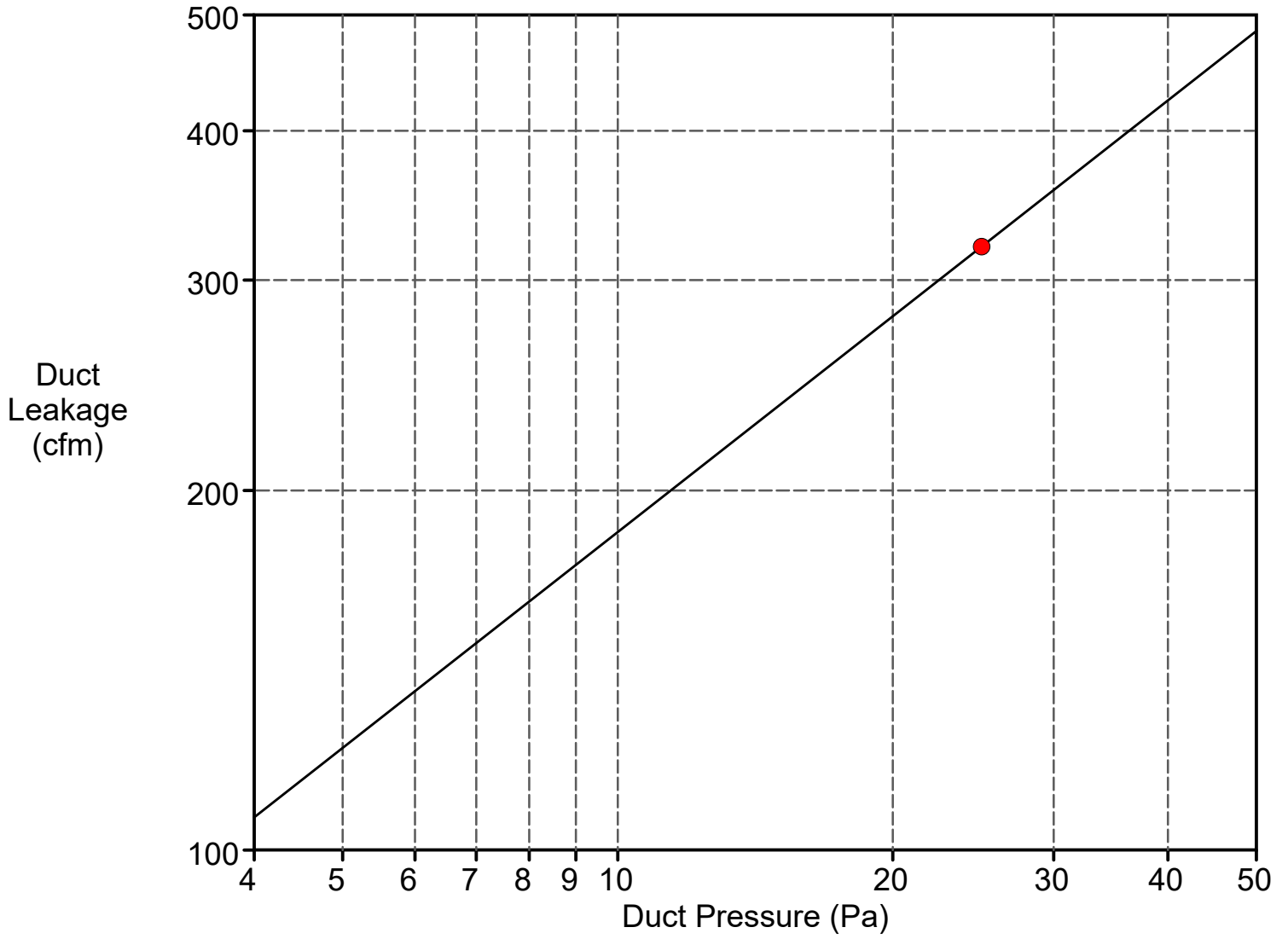
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
0.0	n/a			
-25.0	60.5	320	0.0	Ring 1
0.0	n/a			

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 1 bedroom 1 bathroom



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Outside Leakage (Combined Duct Blaster and Blower Door Test)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>155.0 CFM (29.2 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>18.2 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>21.9 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

# DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 2 bedroom 1 bathroom

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 2 bedroom 1 bathroom

---

## Test Results

1. Measured Duct Leakage: **155.0 CFM / 29.2 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **18.2 %**
  3. Duct Leakage as a Percent of Building Floor Area: **21.9 %**
  4. Leakage Split:                      Supply Side:  
  Return Side:
  5. Duct Leakage Curve:               Flow Coefficient (C): **22.5**  
  Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings:                        Test Mode: **Depressurization**  
  Test Pressure: **25.0 Pa**  
  Equipment: **Series B Minneapolis Duct Blaster**  
  Test Type: **Outside Leakage**  
  **(Combined Duct Blaster**  
  **and Blower Door Test)**
- 

## Building and System Parameters:

Floor Area:	<b>707 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (155.0 CFM)**



## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom

---

### Data Points - Data Entered Manually:

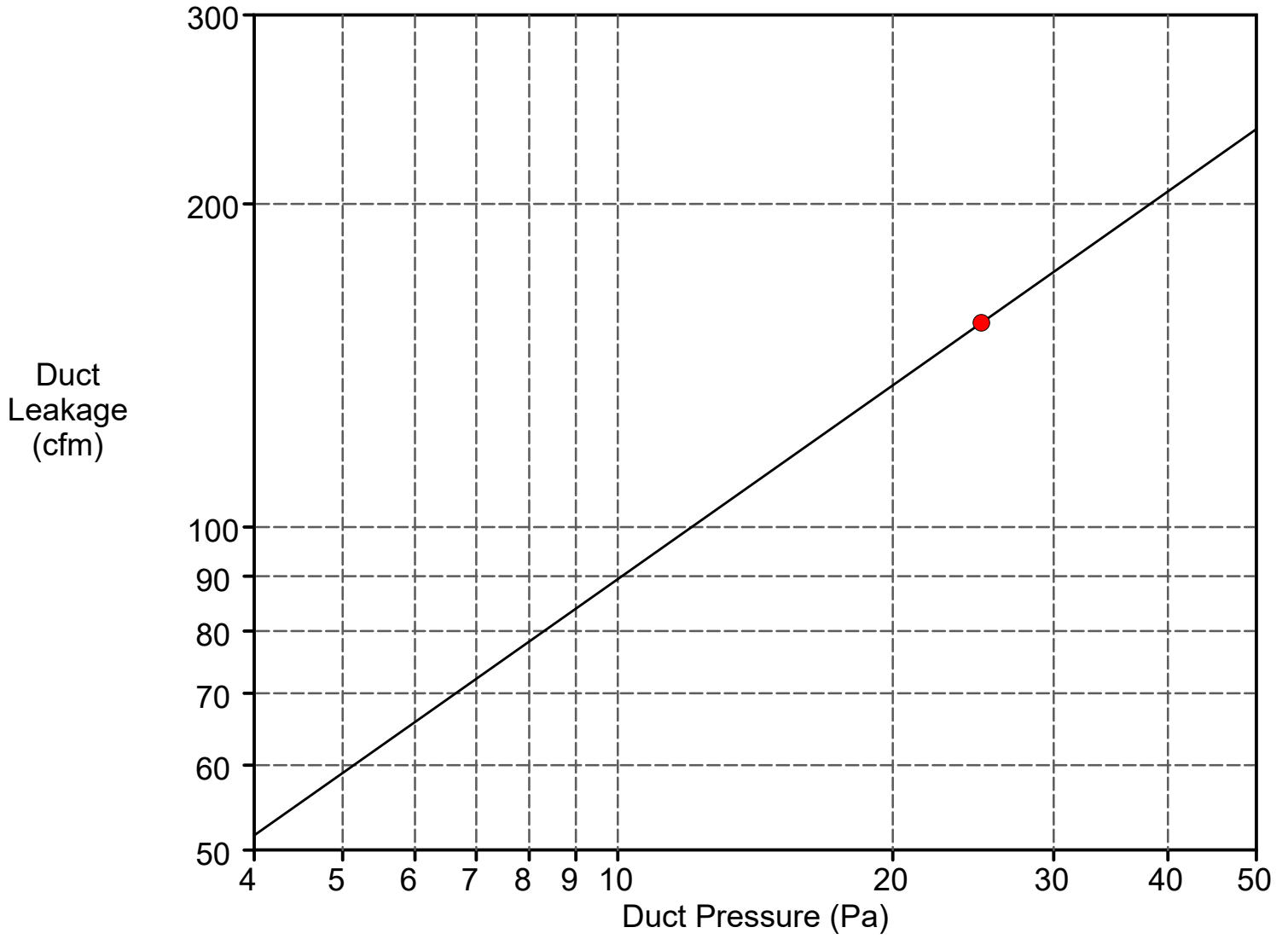
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
-25.0	97.2	155	0.0	Ring 2

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Total Leakage (Duct Blaster Only)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>204.9 CFM (38.7 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>24.1 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>29.0 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.



## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom

---

### Data Points - Data Entered Manually:

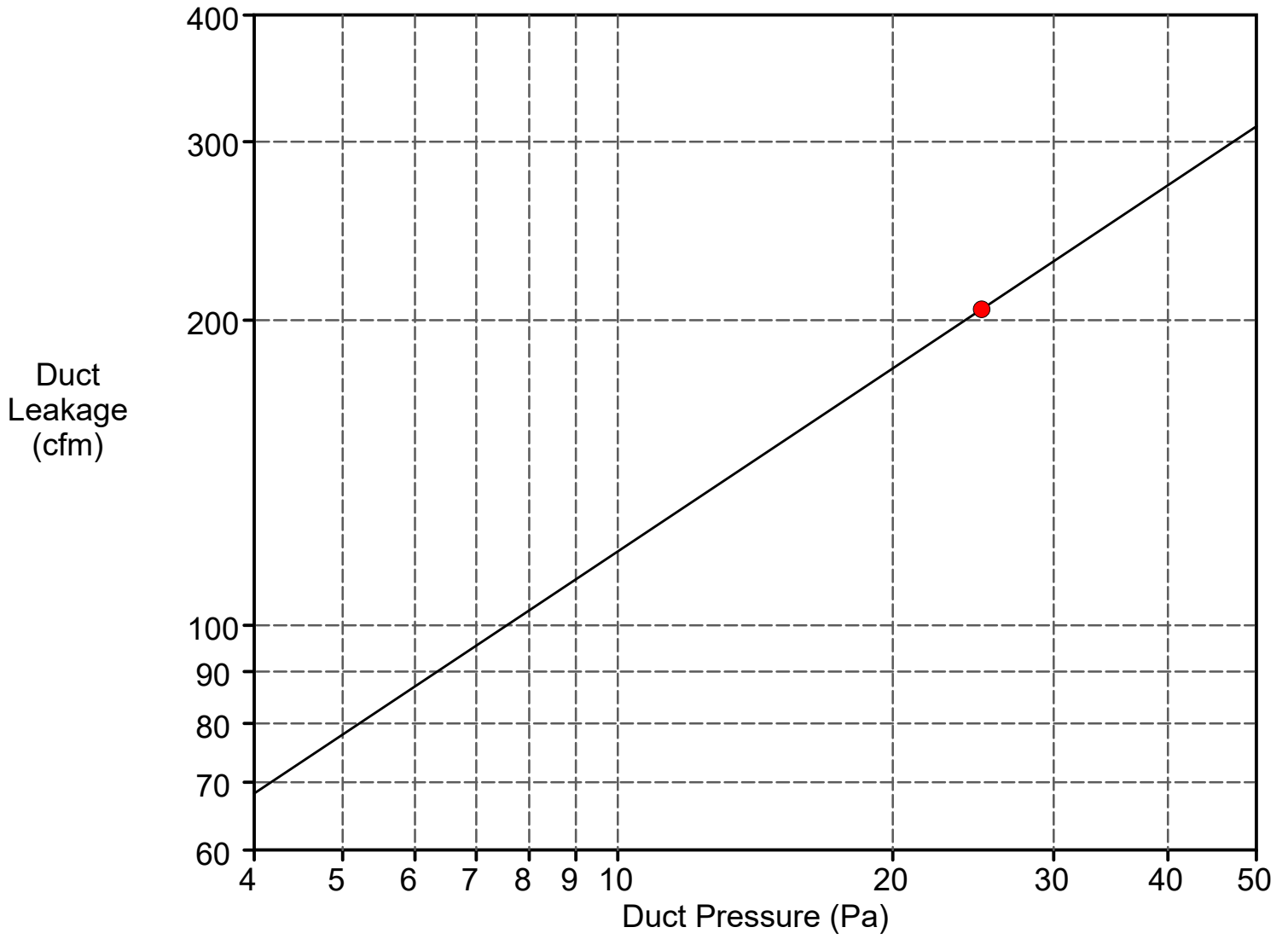
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
0.0	n/a			
-25.0	168.8	205	0.0	Ring 2
0.0	n/a			

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 2 bedroom 1 bathroom



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Outside Leakage (Combined Duct Blaster and Blower Door Test)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>177.0 CFM (33.4 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>20.8 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>22.6 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

## DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 2 bedroom 2 bathroom th

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 2 bedroom 2 bathroom TH

---

### Test Results

1. Measured Duct Leakage: **177.0 CFM / 33.4 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **20.8 %**
  3. Duct Leakage as a Percent of Building Floor Area: **22.6 %**
  4. Leakage Split:                      Supply Side:  
  Return Side:
  5. Duct Leakage Curve:              Flow Coefficient (C): **25.7**  
  Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings:                      Test Mode: **Depressurization**  
  Test Pressure: **25.0 Pa**  
  Equipment: **Series B Minneapolis Duct Blaster**  
  Test Type: **Outside Leakage**  
  **(Combined Duct Blaster**  
  **and Blower Door Test)**
- 

### Building and System Parameters:

Floor Area:	<b>784 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (177.0 CFM)**



## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th

---

### Data Points - Data Entered Manually:

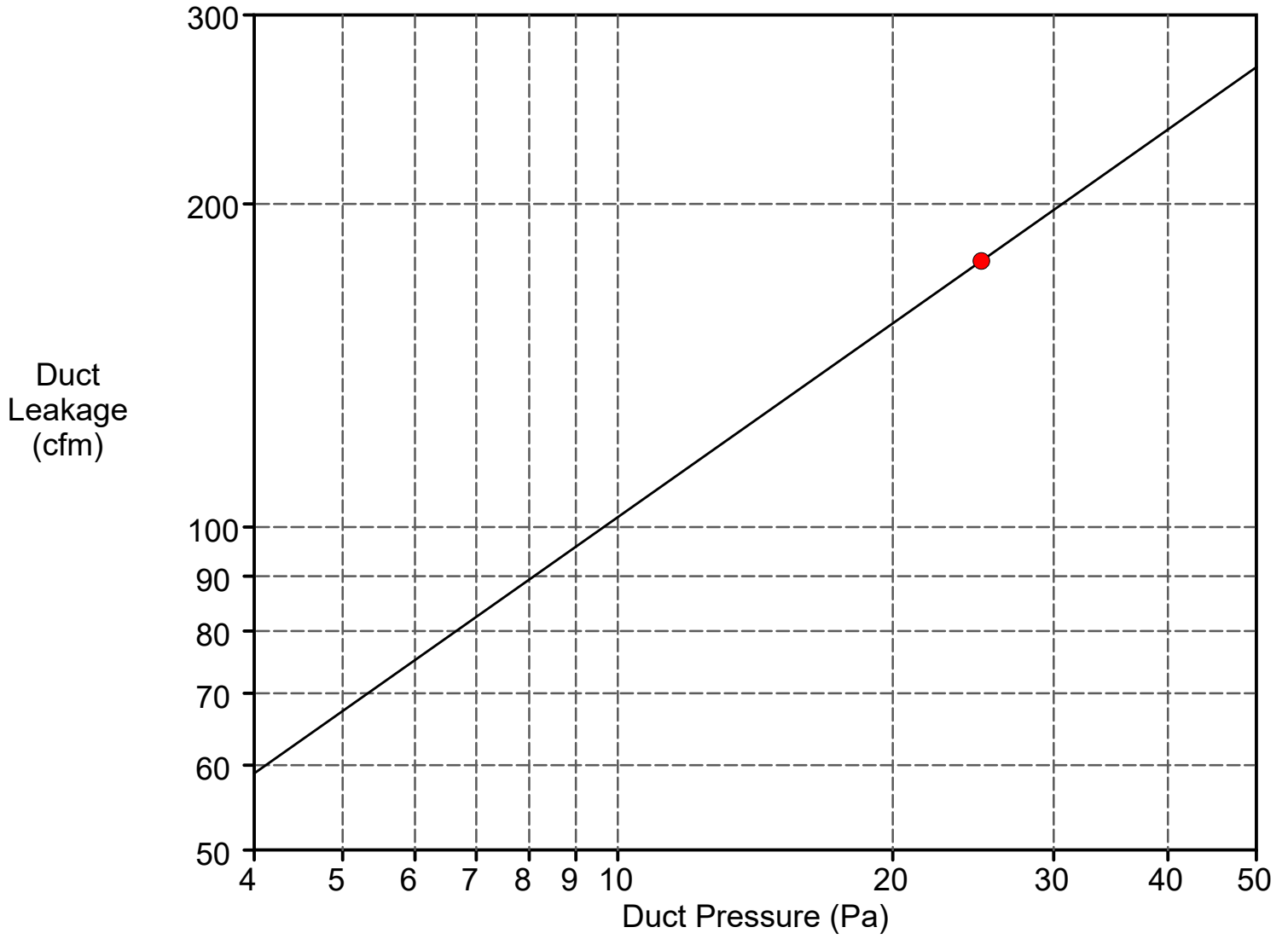
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
-25.0	126.3	177	0.0	Ring 2

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Total Leakage (Duct Blaster Only)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>221.9 CFM (41.9 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>26.1 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>28.3 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

# DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 2 bedroom 2 bathroom th

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 2 bedroom 2 bathroom TH

---

## Test Results

1. Measured Duct Leakage: **221.9 CFM / 41.9 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **26.1 %**
  3. Duct Leakage as a Percent of Building Floor Area: **28.3 %**
  4. Leakage Split:                      Supply Side:  
  Return Side:
  5. Duct Leakage Curve:              Flow Coefficient (C): **32.2**  
  Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings:                      Test Mode: **Depressurization**  
  Test Pressure: **25.0 Pa**  
  Equipment: **Series B Minneapolis Duct Blaster**  
  Test Type: **Total Leakage**  
  **(Duct Blaster Only)**
- 

## Building and System Parameters:

Floor Area:	<b>784 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (221.9 CFM)**

## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th

---

### Data Points - Data Entered Manually:

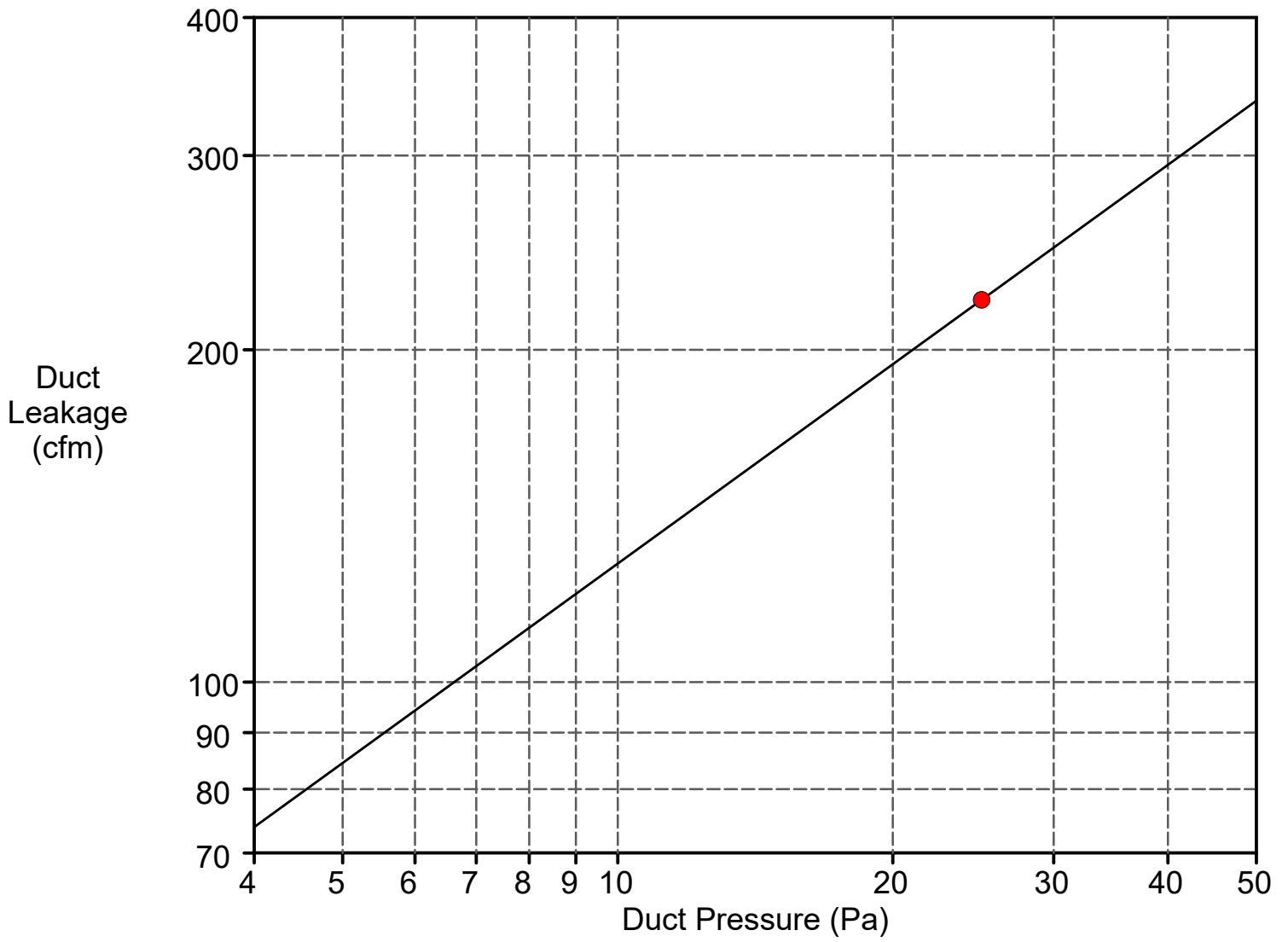
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
0.0	n/a			
-25.0	197.5	222	0.0	Ring 2
0.0	n/a			

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 2 bedroom 2 bathroom th



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Outside Leakage (Combined Duct Blaster and Blower Door Test)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>212.0 CFM (40.0 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>24.9 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>18.1 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

# DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 3 bedroom 2 bathroom

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 3 bedroom 2 bathroom

---

## Test Results

1. Measured Duct Leakage: **212.0 CFM / 40.0 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **24.9 %**
  3. Duct Leakage as a Percent of Building Floor Area: **18.1 %**
  4. Leakage Split: Supply Side:  
Return Side:
  5. Duct Leakage Curve: Flow Coefficient (C): **30.7**  
Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings: Test Mode: **Depressurization**  
Test Pressure: **25.0 Pa**  
Equipment: **Series B Minneapolis Duct Blaster**  
Test Type: **Outside Leakage  
(Combined Duct Blaster  
and Blower Door Test)**
- 

## Building and System Parameters:

Floor Area:	<b>1172 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (212.0 CFM)**



## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom

---

### Data Points - Data Entered Manually:

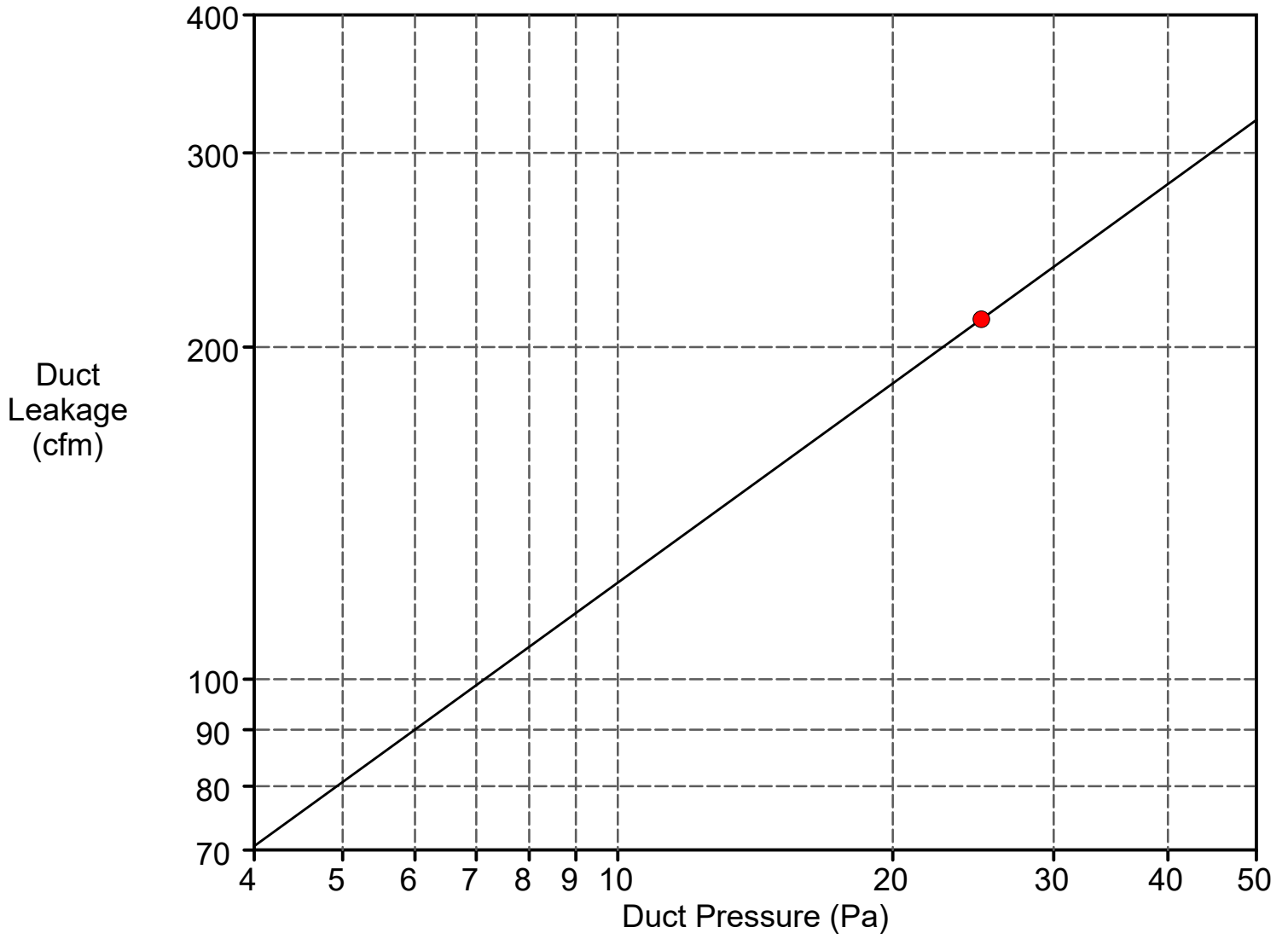
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
-25.0	26.7	212	0.0	Ring 1

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom



# DUCT LEAKAGE TEST RESULTS

---

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom

Test Performed For: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone

---

## Test Results

1. Test Type:	<b>Total Leakage (Duct Blaster Only)</b>
2. Test Pressure:	<b>25.0 Pa</b>
3. Measured Duct Leakage:	<b>285.9 CFM (53.9 sq. in.)</b>
4. Duct Leakage as a Percent of System Airflow:	<b>33.6 %</b>
5. Duct Leakage as a Percent of Building Floor Area:	<b>24.4 %</b>

---

## Additional Information

Duct leakage is often one of the largest sources of energy loss in a house. Leaky supply ductwork causes expensive conditioned air to be lost before it can be delivered to the house, forcing your system to run longer to keep you comfortable.

Leaky ductwork can seriously degrade indoor air quality by pulling pollutants and irritants directly into your house. Leaky return ductwork can also pull moisture into your home, making it feel uncomfortable even when the air conditioning is running.

## DUCT LEAKAGE TEST

---

Date of Test: 6/4/2021  
Test File: 3 bedroom 2 bathroom

Technician: Kevin Robicheau

Customer: Petersburg East  
110 Croatan Drive  
Petersburg, VA 23803  
Phone:  
Fax:

Building Address: 3 bedroom 2 bathroom

---

### Test Results

1. Measured Duct Leakage: **285.9 CFM / 53.9 sq. in. (+/- 0.0 %)**
  2. Duct Leakage as a Percent of System Airflow: **33.6 %**
  3. Duct Leakage as a Percent of Building Floor Area: **24.4 %**
  4. Leakage Split:                      Supply Side:  
  Return Side:
  5. Duct Leakage Curve:              Flow Coefficient (C): **41.4**  
  Exponent (n): **0.600 (Assumed)**
  - 6 Test Settings:                      Test Mode: **Depressurization**  
  Test Pressure: **25.0 Pa**  
  Equipment: **Series B Minneapolis Duct Blaster**  
  Test Type: **Total Leakage**  
  **(Duct Blaster Only)**
- 

### Building and System Parameters:

Floor Area:	<b>1172 sq. ft.</b>	Average Supply Operating Pressure:	<b>Pa</b>
System Airflow:	<b>850 CFM</b>	Average Return Operating Pressure:	<b>Pa</b>
Supply Leakage Split:	<b>%</b>	Supply Leakage Penalty:	
Return Leakage Split:	<b>%</b>	Return Leakage Penalty:	

Percentage of Measured Leakage Connected to Outside: **100% (285.9 CFM)**

## DUCT LEAKAGE TEST Page 2

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom

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### Data Points - Data Entered Manually:

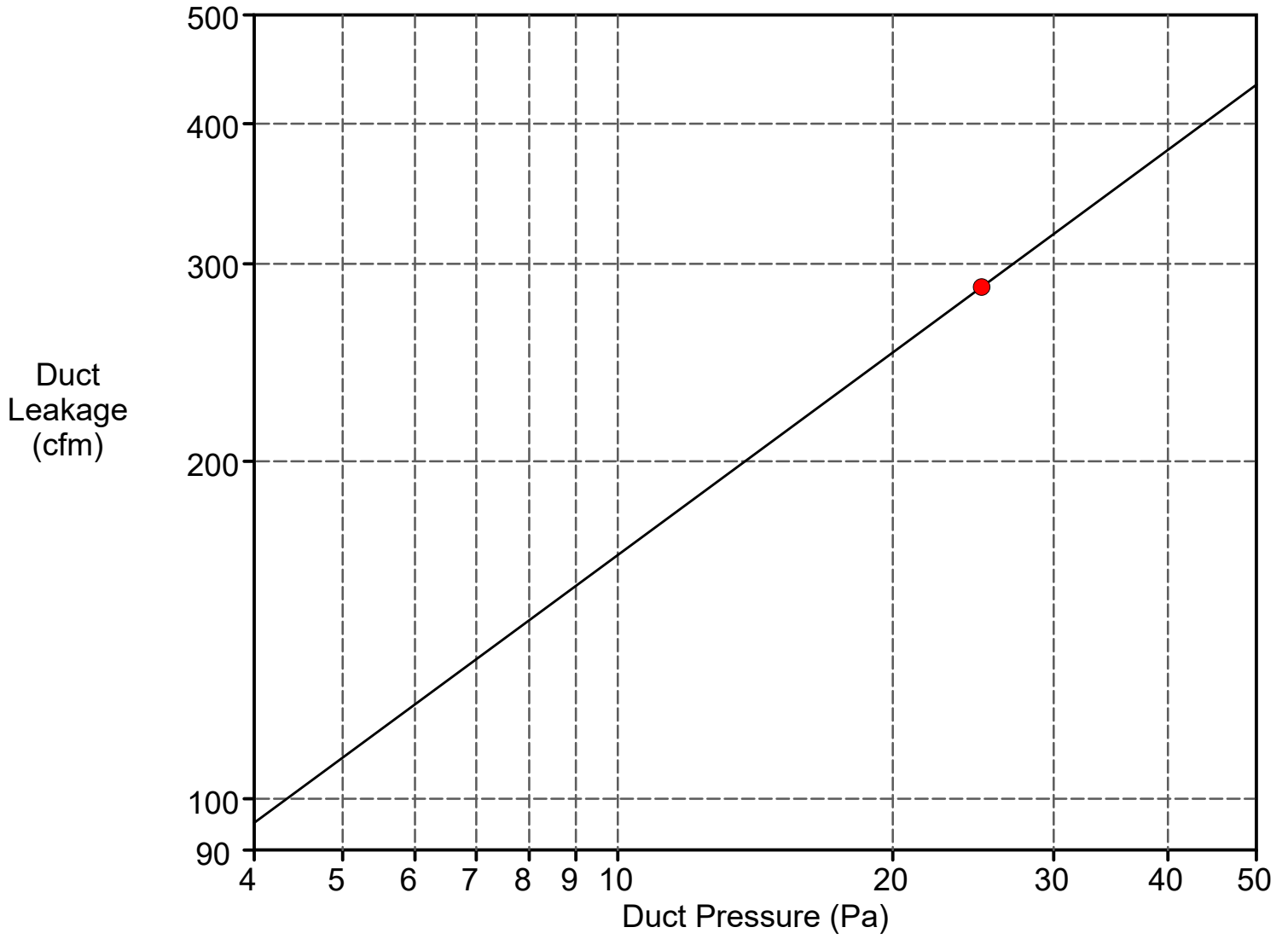
Duct Pressure (Pa)	Fan Pressure (Pa)	Fan Flow (CFM)	% Error	Fan Configuration
0.0	n/a			
-25.0	48.4	286	0.0	Ring 1
0.0	n/a			

---

### Comments

# DUCT LEAKAGE CURVE

Date of Test: 6/4/2021 Test File: 3 bedroom 2 bathroom





Appendix E

Photo Log

Petersburg East  
Petersburg, VA

PHOTO #1



Typical Building Front Elevation

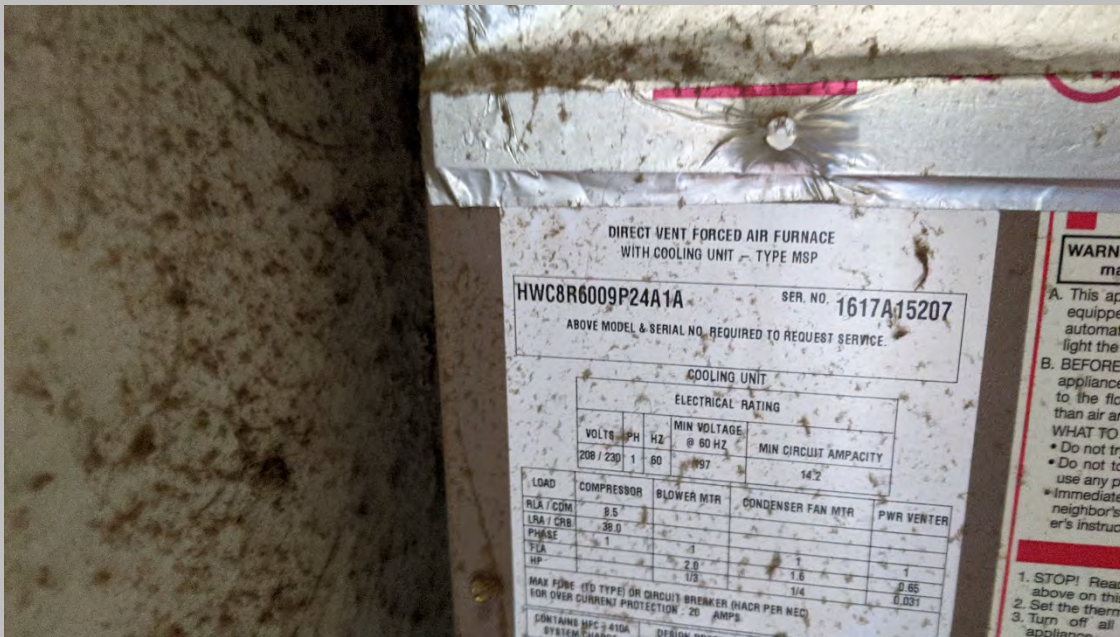
PHOTO #2



Community Center



PHOTO #3



Units Cooled with 9.7 EER and Heated with 80 AFUE Magic-Pak Thru-Wall Systems

PHOTO #4



Typical Thermostat for HVAC Units

PHOTO #5



Typical Air Return Plenum for HVAC Units

PHOTO #6



Typical Double Pane Clear Glass Window at Dwelling Units (close up view)

PHOTO #7



Typical Double Pane Clear Glass Window at Dwelling Units

PHOTO #8



Typical Dishwasher and Sink at Dwelling Units

PHOTO #9



Typical Gas Range at Dwelling Units

PHOTO #10



Typical Water Closet and Sink for Dwelling Unit Bathrooms

PHOTO #11



Range Hood Without Direct Outdoor Ventilation

PHOTO #12



Typical Gas DHW for Dwelling Units

PHOTO #13



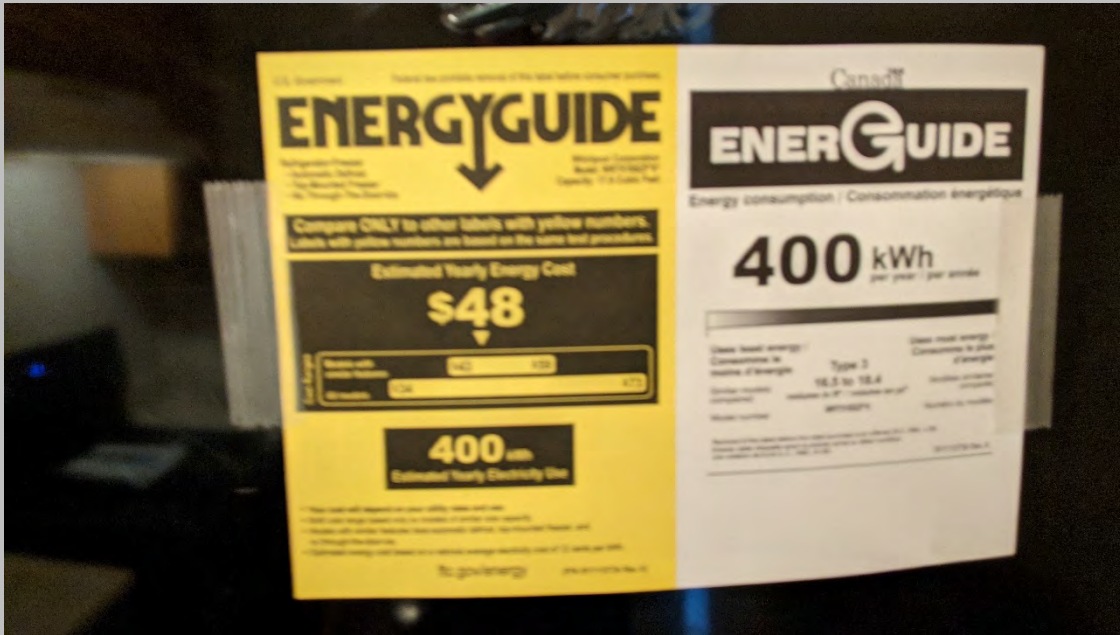
Typical Electrical Service

PHOTO #14



Newer ENERGY STAR Dishwashers to be Installed

PHOTO #15



Newer Refrigerators to be Installed

PHOTO #16



Newer Gas Ranges to be Installed

PHOTO #17



Soffit Containing Duct Work for Dwelling Units

PHOTO #18



Return Plenums Show Signs of Water Damage and Mold Growth



PHOTO #19



Typical Kitchen Sink

PHOTO #20



Typical Bathroom Exhaust – Could Not Confirm Direct-to-Outside Venting

PHOTO #21



Typical Shower Heads – 2.5 GPM

PHOTO #22



Typical Lavatory (Most Were Missing Aerators)

PHOTO #23



Incandescent Bathroom Lighting

PHOTO #24



Entry Doors are Hollow Metal or Polystyrene

PHOTO #25



Incandescent Lighting

PHOTO #26



Attics Were Inaccessible Although a Hole in the Drywall Shows an Older R-13 - R-19 Basket Weave Style Insulation (!970's)

PHOTO #27



Community Laundry Center

PHOTO #28



Community Center Dryers are Gas; Also Venting Issues with Connectivity to the Outdoors



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

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.

X 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 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: 6/9/2021

Printed Name: Kevin Robicheau

RESNET Rater

Resnet Provider Agency
Southface Energy Rated Homes

Signature [Signature]

Provider Contact and Phone/Email Nathan Bessette; 404.604.3618; nbessette@southface.org

G

Zoning Certification Letter  
(MANDATORY)



# City of Petersburg

Department of Planning and  
Community Development  
804-733-2308

135 N. Union Street, Room 304  
Petersburg, Virginia 23803  
FAX 863-2772 TDD 733-8003

April 1, 2021

Project Name: Petersburg East 1 and Petersburg East II  
Property Address: 110 Croatan Dr., Petersburg, VA 23803  
Project Number: 20-300655.6  
Tax Parcel # 003060006 and 003060005 (202 Lakemont Dr)  
Zoning District: R-4, Multiple - Dwelling District

To Whom It May Concern,

Thank you for your request for a Zoning Confirmation Letter for the above referenced property. At your request, we have examined our records with respect to that certain real property lying in the City of Petersburg, Virginia, addressed as 110 Croatan Drive, currently owned by Whitehill Estates- I LPC/O TMAM, commonly known as Petersburg East Apartment Complex and locally known as Croatan Apartments, and designated in the City's real estate tax records as Parcel Number 003060006 (the "Property"), and we are pleased to advise you that:

a. The Property is zoned "R-4, Multiple-Dwelling District", as under the zoning regulations of the City of Petersburg (the "City"). The complex consists of two sections, with a total of 168 units on 10.6 acres. Section 1 includes 100 units on 5.838 acres while Section 2 includes 68 units on 4.762 acres. The R-4, zoning district permits use of the properties for multiple-family dwellings as a matter of right without the necessity of obtaining a conditional or special use permit, variance, special exception or other authorization or approval. In the event of casualty or destruction to some or all the improvements on the property, the improvements could be rebuilt to their current specifications, subject to building code requirements. It should be noted that 110 Croatan Drive is used as a leasing office and community building to hold meetings and provide laundry facilities. The highlighted property identified and addressed as 2385 Navajo Ave AKA: 202 Lakemont Drive is highlighted on a survey plat prepared by Resource International, LTD appears to be an apartment building attached to two other units addressed as 2387 and 2389 also noted is the street name of Navajo Court.

b. The Properties are subject to all setbacks, height, density, and parking requirements as set forth by the "R-4" zoning district. Please be advised that any changes (additions, increase in the number of units, etc.) will require review by this office as well as the Code Compliance office prior to construction or renovation, and you may be required to obtain a new Certificate of Occupancy. Under today's zoning guidelines per Article 22, Height, Area and Bulk Requirements Section 1. The calculation of dwelling units is based on property square footage, one (1) unit for an initial 5,000 square feet and an additional unit per 3,000 square feet. Eighty-four (84) dwelling units is the maximum permitted units on 207,433 square feet of property. The subject properties would be permitted to continue their current use and classification as a legal nonconforming use per Article 9, R-4, Multiple-Dwelling District Regulations and Article 24. Nonconforming Uses of the Zoning Ordinance.

c. To the best of my knowledge, the Properties is currently in compliance with all applicable requirements of the zoning ordinance of the City of Petersburg, Virginia. A review of our files found (i) no violations or alleged violations or regulations applicable to the Properties, whether pending,



contemplated, or having already occurred, (ii) no fees due or pending with respect to any matter before the City Planning Office; and (iii) no pending application for rezoning of the Properties, or for a special or conditional use permit or variance in connection with the Property. Further, no proceeding to challenge the zoning is pending. Our office cannot certify compliance with other governmental approvals.

I hope this information is helpful, if you should desire additional information, please feel free to contact me at 804-733-2308.

Sincerely,

*Sandra A. Robinson*

Sandra A Robinson  
Zoning Administrator

File:

Reginald Tabor, Interim Director of Planning and Community Development  
John Hines, Building Official, Code Compliance  
Francis Poulin, FOIA Coordinator, Director Neighborhood Services  
Renee Hawkins, Permits Technician  
Bonnie Bridges, Partner Engineering and Science, Inc.  
Raeanna Ross, Partner Engineering and Science, Inc.  
Emma Corso, Partner Engineering and Science, Inc.

**Plan of Development Certification**

**DATE:** 11-16-2021

**TO:** Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220  
Attention: JD Bondurant

**RE:** PLAN OF DEVELOPMENT CERTIFICATION

Name of Development:	<u>Petersburg East I &amp; II Apartments</u>
Name of Owner/Applicant:	<u>Petersburg East Housing Partners, LP</u>
Name of Seller/Current Owner:	<u>Petersburg East Housing Partners, LP</u>

The above-referenced Owner/Applicant has asked this office to complete this form letter regarding the site plan of the proposed Development (more fully described below). This certification is rendered solely for the purpose of confirming the status of plan of development or site plan approval of the Development. It is understood that this letter will be used by the Virginia Housing Development Authority solely for the purpose of determining whether the Development qualifies for points available under VHDA's Qualified Allocation Plan.

**DEVELOPMENT DESCRIPTION:**

Development Address:  
110 Croatan Drive & 2385 Navajo Court  
Peterburg, VA 23803

Legal Description:  
Included under separate cover  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan of Development Number: N/A

Proposed Improvements:

<input type="checkbox"/> New Construction:	_____ # Units	_____ # Buildings	_____ Total Floor Area
<input type="checkbox"/> Adaptive Reuse:	_____ # Units	_____ # Buildings	_____ Total Floor Area
<input checked="" type="checkbox"/> Rehabilitation:	168 # Units	19 # Buildings	120,000 Total Floor Area

Other Descriptive Information:

See separate summary

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**LOCAL CERTIFICATION:**

Check one of the following as appropriate:

- The proposed development described above has an approved final plan of development or site plan (as applicable to the site). No further plan of development or site plan approval is required before issuance of a building permit.
- The proposed development is an existing development with proposed renovations and no additional plan of development approval is needed.

The above plan of development approval is in effect until: \_\_\_\_\_

Sandra A. Robinson

Signed

Sandra A. Robinson

Printed Name

Zoning Administrator

Title

804-733-2308

Phone

11-16-2021

Date

**NOTES TO LOCALITY:**

1. Return this certification to the developer for inclusion in the tax credit application package.
2. Any change in this form may result in a reduction of points under the scoring system. If you have any questions, please call the Tax Credit Allocation Department at (804) 343-5518.

H

Attorney's Opinion  
(MANDATORY)



## WINTHROP & WEINSTINE

November 19, 2021

**TO:** Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220

**RE:** 2021 Tax Credit Reservation Request

Name of Development: Petersburg East I & II Apartments

Name of Owner: Petersburg East Housing Partners, LP, a Virginia limited partnership

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 on or around October 19, 2021 (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 Owner Costs sections 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.
5. It is more likely than not that the representations made under the Rehab Information section of the Application form as to the Development's compliance with or exception to the Code's minimum expenditure requirements for rehabilitation projects are correct.

2021 – Tax-Exempt

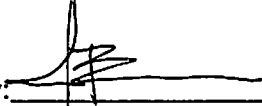
6. After reasonable investigation, the undersigned has no reason to believe that the representations made under the Rehab Information section of the Application form as to the Development's compliance with or eligibility for exception to the ten-year "look-back rule" requirement of Code §42(d)(2)(B) are not correct.

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.

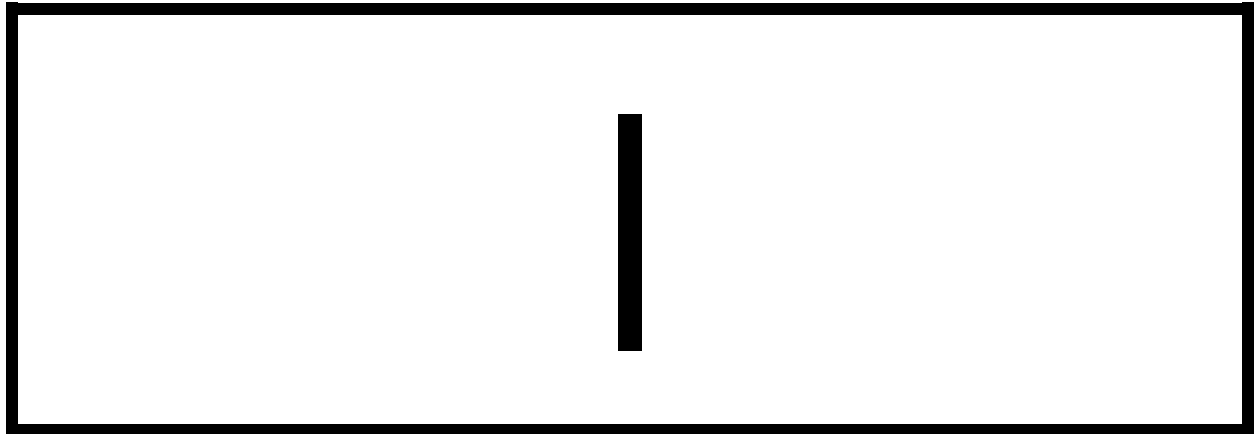
This opinion is rendered solely for the purpose of inducing the Virginia Housing Development Authority ("VHDA") to issue a reservation of Credits to the Owner. Accordingly, it may be relied upon only by VHDA and may not be relied upon by any other party for any other purpose.

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.

WINTHROP & WEINSTINE, P.A.

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

A Shareholder



# Nonprofit Questionnaire

(MANDATORY for points or pool)

J

Relocation Plan  
Including Unit  
Delivery Schedule  
(MANDATORY, if tenants are displaced)



# Petersburg East I & II Apartments Temporary Relocation Plan



October 22, 2021

# Petersburg East I & II Apartments

## 110 Croatan Drive

### Petersburg, VA 23803

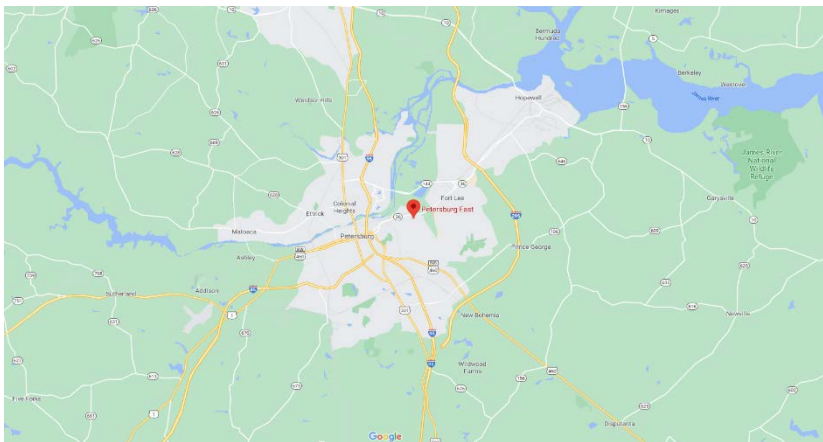
### Temporary Relocation Plan

This plan is an outline of our procedures only if there is a need to temporarily relocate a tenant. This plan is drafted with the intent to facilitate a just and efficient temporary relocation process during the rehabilitation of the subject property. This plan complies with the Uniform Relocation Act, 49 CFR Part 24, and all requirements in HUD Handbook 1378.

#### **Project Description:**

Petersburg East I & II Apartments is a multifamily apartment community located in Petersburg, Virginia (marked on the map below) which Vitus intends to acquire and rehabilitate.

It is important to preserve Petersburg East I & II Apartments as quality, affordable housing. The redevelopment and large-scale improvements will not only benefit the current residents, but the surrounding neighborhood as well. The impact on the neighborhood will be minimal as there is no new construction involved.



*Location Map, Petersburg East I & II Apartments*

Petersburg East I & II Apartments consists of a 168-unit apartment community comprised of 19 two-story apartment buildings as well as 1 one-story leasing office located on a 10.60-acre lot. Petersburg East I was originally constructed in 1975 and Petersburg East II was originally constructed in 1976. The project's 168 units are made up of 28 one-bedroom, 28 two-bedroom townhouses, 60 two-bedroom and 52 three-bedroom units. Property amenities include an on-site leasing office, community room, laundry facilities, a playground, and a paved parking lot for approximately 290 vehicles.

All 168 units on the property are covered by a HAP contract. At closing, the HAP contract will be renewed for a 20-year term, subject to federal appropriations.

The property consists of one parcel of land, near Highway 21. The site is served by Oaks Elementary School, Port Royal Elementary School, Petersburg Middle School, Battery Creek High School, Royal Oaks shopping center, CVS Pharmacy, Rite Aid Pharmacy, Dollar general, in addition to being with 1 mile of US Naval Hospital Petersburg and 2 miles of Petersburg Memorial Hospital.



*Property Photo, Petersburg East I & II Apartments*

Petersburg East I & II Apartments rehabilitation will include improvements such as:

- New vinyl siding
- Jetting and repairs to sanitary sewer
- Repair of sidewalks and parking areas
- Installation of new windows and doors in units
- Replacement of exterior lighting
- Replacement of refrigerators, ranges, and range hoods in units with Energy Star appliances
- Replacement of kitchen cabinets and countertops
- Replacement of bathroom vanities, sinks, tubs and shower surrounds
- New energy-efficient split-systems to replace existing HVAC system
- 4 units to receive hearing and sight impaired upgrades
- Conversion of 9 units to be fully ADA-compliant
- Reconfigure community building to be ADA-compliant

With these upgrades, the project will provide housing comparable to (or better than) the quality of other housing in the market area. The rehabilitation will be completed with minor disruption to the residents.

Vitus maintains a commitment to environmentally friendly construction and energy efficient housing. To honor this commitment, upgrades will include high efficiency lighting packages, low-E coated windows, ENERGY STAR qualified appliances, and high efficiency plumbing fixtures.

As part of the rehabilitation, the community room will receive upgrades similar to the upgraded unit interiors including: replacement of refrigerator, range & range hood, kitchen cabinets and countertops and bathroom fixtures. The community space will be reconfigured to accommodate ADA accessibility, and furnishings will be updated. The community room will be available to tenants during the rehabilitation as a hospitality suite, stocked with snacks and beverages, movies, and school supplies for tenant needs during the day.

### **Temporary Relocation:**

The current rehabilitation plan is to renovate the property based on a rotating basis, which may cause residents to be temporarily relocated during the day. In order to ensure minimal inconvenience to the residents, the rehabilitation will be sequenced and phased such that each unit will be required to be vacated for as short a time as possible. In the event a unit will need extensive work that will leave the unit without a working kitchen or bathroom for a period of time, the tenant will be relocated to an Extended Stay hotel

funded by Petersburg East I & II Housing Partners, LP through the development budget. No tenants will be permanently relocated as a result of this project. Residents' belongings will remain in their units but may need to be packed in boxes or moved to the middle of their unit. Residents will be given assistance and supplies in order to pack their belongings.

During construction, nine (9) units will be converted to ADA-compliant units (Specific units are listed below). These households will be located to an Extended Stay Hotel during the length of their unit's rehabilitation. It is anticipated that these households will be temporarily relocated for up to 45 days until the renovation work is completed. Once this is complete, these residents will be able to return to their original unit.

The remaining 159 units are anticipated to remain on-site in their current units during the renovation. The renovation work being completed in these units will not require residents to vacate and will create only minimal disruption to their households. It is anticipated that the remaining 159 units will be relocated for six to eight hours a day for up to 21 days. Petersburg East I & II Housing Partners, LP will be setting up a hospitality suite in the current community room equipped with the necessary amenities for these households to make use of during their time out of their unit. This hospitality suite will be equipped and maintained by Petersburg East I & II's management team. Refreshments, snacks, seating and entertainment will be available for the resident's use. The appliances such as refrigerator, stove and microwave will be available for residents cooking needs and checked regularly by management.

**Permanent Relocation:**

Petersburg East I & II Housing Partners, LP anticipates that no resident will be permanently relocated by this project. Residents will either be temporarily housed off-site at an Extended Stay Hotel if their unit is without a working kitchen or bathroom for a period of time or will be asked to vacate the unit during the day and will return to their unit at night. If a household is determined to be ineligible to income qualify in accordance to the rent restrictions currently in place, he/she will be contacted by the Management team directly.

**Unit Breakdown:**

The current residential unit breakdown at Petersburg East I & II Apartments is as follows:

<b>Unit Size</b>	<b>Quantity</b>
1 Bedroom	28
2 Bedroom TH	28
2 Bedroom	60
3 Bedroom	52
<b>Total</b>	<b>168</b>

The residential unit breakdown by building at Petersburg East I & II Apartments is as follows:

<b>Building 1</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	
3 B	8

<b>Total</b>	<b>8</b>
<b>Building 2</b>	<b>Quantity</b>
1 B	0
2 B TH	
2 B	16
3 B	
<b>Total</b>	<b>16</b>
<b>Building 3</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	8
3 B	4
<b>Total</b>	<b>12</b>
<b>Building 4</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 5</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 6</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 7</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 8</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	4
3 B	12
<b>Total</b>	<b>16</b>
<b>Building 9</b>	<b>Quantity</b>
1 B	
2 B TH	

2 B	
3 B	8
<b>Total</b>	<b>8</b>
<b>Building 10</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	4
3 B	4
<b>Total</b>	<b>8</b>
<b>Building 11 (1 PE 2)</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	8
3 B	4
<b>Total</b>	<b>12</b>
<b>Building 12 (2 PE 2)</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	20
3 B	4
<b>Total</b>	<b>24</b>
<b>Building 13 (3 PE 2)</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 14 (4 PE 2)</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>
<b>Building 15 (5 PE 2)</b>	<b>Quantity</b>
1 B	
2 B TH	
2 B	
3 B	8
<b>Total</b>	<b>8</b>
<b>Building 16 (6 PE 2)</b>	<b>Quantity</b>
1 B	4
2 B TH	4
2 B	
3 B	
<b>Total</b>	<b>8</b>

**Relocation Process:**

The following relocation process is intended to guide the temporarily relocation at Petersburg East I & II Apartments. All affected households will be given regular notifications regarding the initial relocation plans, and the Petersburg East I & II Management team will be available for any questions that may arise from tenants. Management will be responsible for preparing and distributing all required relocation notices, maintain the original relocated household list, establishing and maintaining a recordkeeping system, and coordinating the temporary moves of each household within the required timelines. It is the responsibility of Petersburg East I & II Housing Partners, LP and the management team to hire a moving company for all necessary household relocations.

**Relocation Schedule:**

The following relocation schedule is designed to provide minimal disruptions to residents and will provide the most optimal schedule for the construction team. The order of buildings is subject to change, and is as follows:

- Buildings 1 & 2
- Buildings 3 & 4
- Buildings 5 & 6
- Building 7 & 8
- Buildings 9 & 10
- Buildings 11 & 12
- Buildings 13 & 14
- Buildings 15 & 16

Residents will be receiving temporary move notices prior to the timing of their units rehabilitation by Management. In no instance will the notices be delivered less than 30 days prior to the required moving date.

**Units to be Relocated Off-site:**

<u>BLDG#</u>	<u>UNIT #</u>	<u>Resident*</u>
TBD	TBD	TBD
	TBD	TBD
TBD	TBD	TBD
	TBD	TBD
TBD	TBD	TBD

\*Resident list is subject to change. Tenants living in these units are estimated to be relocated for 14 days weeks during construction.

Proposed ADA units will undergo renovations towards the end of the construction schedule as to accommodate the substantial scope of work. All ADA unit residents will be relocated offsite to hotel units for the 45-day duration of their construction.

## **Relocation Notices and Relocation Questionnaires:**

In preparation for the relocation, Petersburg East I & II Housing Partners, LP, and the Management team will conduct group meetings to notify tenants of the project plans. Management will provide Relocation Questionnaires to each household to identify special needs and/or additional assistance unique to each unit prior to each move. An example of this questionnaire is listed below in Appendix A. Individual household interviews may be conducted with each unit's head of household in order to explain all eligible benefits and help complete necessary forms to receive those benefits.

The following notices will be provided to each household (See Appendix B):

- General Information Notice / Notice of Displacement
- Notice of Eligibility / Relocation 30-day Notice

Each household will be given these notices, as well as written information outlining the relocation process. Translation services of these notices will be provided as needed. The tenants that may require special assistance due to a disability will be identified and will be provided assistance in a non-discriminatory manner. Every attempt will be made to keep the tenants informed and to answer any questions they may have.

## **Relocation Moving and Storage:**

Assistance will be provided, as requested, with boxing, inventorying, and relocating residents' personal belongings to temporary storage on site for full move units. Heavy or large pieces of furniture will be protected and moved out of the work area but left in the unit. Residents in units designated to receive the ADA upgrades will need to be fully vacated and the resident, along with their belongings, temporarily housed in an off-site Extended Stay. Storage pods will be available on-site for resident belongings. Storage pods will be secure and residents will not have access to these stored goods during the renovation.

Residents in ADA units may choose either a payment for actual reasonable moving and related expenses (Commercial Move), or a moving expense (Self-Move) or a combination of both, based on circumstances.

*Commercial Move:* Payment for actual reasonable moving and related expenses, may include reasonable and necessary costs paid directly by Petersburg East I & II Housing Partners, LP to the selected commercial mover/provider for transportation, packing, moving and unpacking of household goods. Disconnecting and reconnecting household appliances and other personal property (examples: telephone and cable TV). Insurance for the replacement value of your property during the move and necessary storage. The replacement value of property lost, stolen or damaged in the move (but not through resident's neglect) if insurance is not reasonably available.

*Self-Move:* Residents may elect to move their belongings themselves and may be eligible to receive payment based on the Federal Highway Administrations (FHWA) Fixed Residential Moving Cost Schedule for number of rooms in the dwelling.

Or - Residents may elect a *combination* of both: 1) the actual cost of the move; 2) a fixed amount as determined by the federal government or, if a household chooses to move its own possessions, the household is entitled to a moving payment based on the lower of two bids obtained by management and received by Petersburg East I & II Housing Partners, LP from licensed/insured/responsible companies/individuals Petersburg East I & II Housing Partners, LP will reimburse these costs, or in hardship cases, will provide payment for moving expenses to residents ahead of the move so that the residents can hire appropriate movers (residents may be eligible for packing and unpacking by professional movers).



## **Relocation Implementation:**

The property will follow the following implementation steps:

- Send 30-day notice to tenants, notifying households of their temporary relocation move date. These notices will provide instructions as to what necessary items will need to be packed and/or moved to storage. If off-site relocation is necessary, the notice will provide detailed move and transportation instructions. Reminder notices will be sent 72 hours prior to starting in units.
- Schedule packing and/or move dates. Deliver packing materials to unit.
- Management will pre-inspect the apartment with the resident to determine the volume of goods and any special needs. "As is" pictures or video will be taken of the apartment showing layout and existing conditions or damage.
- Confirm unit is ready for contractor entry each morning
- Renovation work is completed.
- Schedule resident return – inspect unit for completion and confirm move date with family on select units.
- Move and schedule walk through with resident prior to unpacking goods.
- Unpack goods and set up as necessary. (If needed)
- Management to follow up to ensure satisfaction.

The project has allocated \$840,000 for temporary relocation which breaks down to \$5,000 per unit. We anticipate these funds to be paid by the permanent loan and will be spent on packing/moving expenses, extended stay hoteling, hospitality suite furnishings and stocking, and storage.

The property manager and relocation specialist will act as the relocation coordinator(s) throughout the construction period, contact information for these individuals are listed below:

- Kristi Austin; [kaustin@mmsgroup.com](mailto:kaustin@mmsgroup.com) – (804) 733-3657 – Property Manager
- Jeanie Strickland; [jstrickland@mmsgroup.com](mailto:jstrickland@mmsgroup.com) – (912) 602-0758 – Relocation Specialist
- Rosa Griffin; [rgriffin@mmsgroup.com](mailto:rgriffin@mmsgroup.com) – (845) 368-2400 – Regional Property Manager

Please note that this *relocation plan* represents an estimate and may be modified during the rehabilitation process in order to better serve possible unanticipated resident needs.

# **Petersburg East I & II Apartments**

## **Appendix A**

### **Tenant Relocation Questionnaire**

## RELOCATION QUESTIONNAIRE

### Primary Residence Information

Resident Name:				
Resident Unit #:				
Primary Phone #:				
Household Information				
Name of Occupant	Relationship to head of household	Sex	Age	Name of Employer/School
Special Needs:				
Primary Residence Description:				
Primary Residence Structure Type:			Condition:	Year Built:

### Room Count:

<input type="checkbox"/> Living Room	<input type="checkbox"/> Home Office	<input type="checkbox"/> Basement
<input type="checkbox"/> Dining Room	<input type="checkbox"/> Recreation Room/Den	<input type="checkbox"/> Attic
<input type="checkbox"/> Kitchen	<input type="checkbox"/> Porch (Front / Back)	<input type="checkbox"/> Garage
<input type="checkbox"/> Bedrooms	<input type="checkbox"/> Laundry Room	<input type="checkbox"/> Deck
<input type="checkbox"/> Bathrooms	<input type="checkbox"/> Washer/Dryer in Laundry Room ____: # of Laundry Loads per week	

### Pets:

- Are pets to be temporarily relocated?  Yes  No
- Type of Pet: \_\_\_\_\_
- Number of Pets: \_\_\_\_\_
- Pets have all appropriate shots?  Yes  No

### Adult Transportation Needs:

	Occupant #1:	Occupant #2:	Occupant #3:
Personal Vehicle:	Y / N	Y / N	Y / N
Carpool:	Y / N	Y / N	Y / N
Public Transportation:	Y / N	Y / N	Y / N
Walk or Bike:	Y / N	Y / N	Y / N
Distance to Work:	_____ miles	_____ miles	_____ miles

Other Transportation Needs:

\*If additional occupants, please add additional lines.

**Student Transportation Needs:**

Number of Children requiring transportation to school: \_\_\_\_\_

	Student #1:	Student #2:	Student #3:
Family Vehicle:	Y / N	Y / N	Y / N
School Bus:	Y / N	Y / N	Y / N
Carpool:	Y / N	Y / N	Y / N
Public Transportation:	Y / N	Y / N	Y / N
Walk or Bike:	Y / N	Y / N	Y / N
Distance to School:	_____ miles	_____ miles	_____ miles
Other Transportation Needs:			

\*If additional occupants, please add additional lines.

**Public Assistance:**

Name of Occupant on Public Assistance:	Type of Public Assistance:	Public Assistance Case Worker Information:

**Relocation Needs and Preferences:**

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

**Primary Residence Service Provider Information:**

Provider:	Contact Info / Account Info:
Gas:	
Electric:	
Water/Sewer:	
Telephone:	
Cable/ TV:	
Internet:	
Home Owner Insurance:	
Other:	

**Home Business Information:**

- Do you operate a part-time or full-time home business from your primary residence?  
Yes / No
- Do you work from Home: Yes / No If so, please explain:

---

**Questionnaire Verification:**

Primary Resident Name:	Primary Resident Signature:	Date:
Relocation Specialist Name:	Relocation Specialist Signature:	Date:

# **Petersburg East I & II Apartments**

## **Appendix B**

### **Tenant Notices**

[Tenant Name]  
[unit number] Address  
Petersburg, VA 23803

**GENERAL INFORMATION NOTICE  
RESIDENTIAL TENANT NOT RELOCATED**

\_\_\_\_\_, 2020

Dear [Tenant Name],

Petersburg East I & II Housing Partners, LP is interested in rehabilitating the property you currently occupy at \_\_\_\_\_ 110 Croatan Drive, Petersburg, VA 23803 for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Section 8 program.

The purpose of this notice is to inform you that you will not be relocated in connection with the proposed project.

If the project application is approved and federal financial assistance provided, you may be required to move temporarily so that the rehabilitation can be completed. If you must move temporarily, suitable housing will be made available to you and you will be reimbursed for all reasonable out of pocket expenses, including moving costs and any increase in housing costs. You will need to continue to pay your rent and comply with all other lease terms and conditions.

Upon completion of the rehabilitation, you will be able to lease and occupy your present apartment or another suitable, decent, safe and sanitary apartment in the same building/complex under reasonable terms and conditions.

If federal financial assistance is provided for the proposed project, you will be protected by a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). One of the URA protections for persons temporarily relocated is that such relocations shall not extend beyond one year. If the temporary relocation lasts more than one year, you will be contacted and offered all permanent relocation assistance as a relocated person under the URA. This assistance would be in addition to any assistance you may receive in connection with temporary relocation and will not be reduced by the amount of any temporary relocation assistance previously provided. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered.

**(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)**

We urge you not to move at this time. If you choose to move, you will not be provided relocation assistance.

Please remember:

- **This is not a notice to vacate the premises.**
- **This is not a notice of relocation eligibility.**

You will be contacted soon so that we can provide you with more information about the proposed project. If the project is approved, we will make every effort to accommodate your needs. In the meantime, if you have any questions about our plans, please contact:

---

Sincerely,  
Petersburg East I & II Housing Partners, LP

NOTICE OF NONDISPLACEMENT TO  
RESIDENTIAL TENANT



Date:

Dear Tenant:

On \_\_\_\_\_ Petersburg East I & II Housing Partners, LP, notified you of proposed plans to rehabilitate the property you currently occupy at \_\_\_\_\_ 110 Croatan Drive, Petersburg, VA 23803 for a project which could receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Section 8 program. When the project is approved the repairs will begin.

- **This is a notice of nondisplacement.** You will not be required to move permanently as result of the rehabilitation.

This notice guarantees you the following:

1. Upon completion of the rehabilitation, you will be able to lease and occupy your present apartment or another suitable, decent, safe and sanitary apartment in the same building/complex under reasonable terms and conditions.
2. If you must move temporarily so that the rehabilitation can be completed, you will be reimbursed for all of your extra expenses, including the cost of moving to and from temporary housing and any increased interim housing costs. The temporary unit will be decent, safe and sanitary, and all other conditions of the temporary move will be reasonable.

Since you will have the opportunity to occupy a newly rehabilitated apartment, I urge you not to move. (If you do elect to move for your own reasons, you will not receive any relocation assistance.) We will make every effort to accommodate your needs.

Because federal funding is involved in this project, you are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Of course, you must continue to comply with the terms and conditions of your lease.

If you have any questions, please contact \_\_\_\_\_ . This letter is important to you and should be retained.

Sincerely,

(Scott Langan, Manager)



**TEMPORARY RELOCATION  
30 – DAY NOTICE**

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

RESIDENT NAME:

ADDRESS:

Petersburg, VA 23803

RE: Temporary Move – 30 Day Notice

(Sent via regular and certified mail: # / Hand Delivered)

Dear **RESIDENT**:

Petersburg East I & II Housing Partners, LP is ready to begin remodeling and refurbishing activities (the Work) at your primary residence. Your household will need to temporarily relocate in order for the renovation to be completed. You will be moved to an off-site temporary unit and will be returning to your original unit upon completion of the Work.

The purpose of this notice is to inform you that because it will be necessary for you to temporarily relocate you will be provided with Temporary Relocation Moving Assistance.

Temporary Accommodations: You will be moving to

\_\_\_\_\_. Your new temporary address is \_\_\_\_\_. **Your move date is DATE.** The moves will begin between 9:00 a.m. and noon; we are asking all residents to be ready by 8:45 a.m.

Petersburg East I & II Housing Partners, LP will pay the following non-exclusive list of Temporary Relocation expenses associated with your stay at a temporary residence:

1. The utilities (gas, electricity, water and sewer) at your current residence must remain active. **Please do not disconnect or transfer these services.** If you receive a gas and/or electric bill that is higher than normal during the time you are in the temporary unit you may request reimbursement of the overages. To receive reimbursement you will be required to provide the last 3 months of bills to show that the usage increased. Petersburg East I & II Housing Partners, LP expects the utility costs will be lower than normal, since there will be no occupants.
2. Any other expenses directly related to the Temporary Relocation that have been determined to be eligible and that have been approved by the Relocation Coordinator and Petersburg East I & II Housing Partners, LP before they have been incurred.
3. All valuables (jewelry, art, collectables, antiques, and medication) **must** be packed and transported by you to the temporary accommodation. **Management, the Moving Company and Petersburg East I & II Housing Partners, LP will not be responsible if any of these items are lost during the move.**

**Reminders:**

- If possible, please start packing your belongings. **Packing supplies are available; please see** Relocation Coordinator.
- Please be sure to contact the property manager if you require any additional assistance with your move.

- **All belongings must be removed from your kitchen and bathroom by the end of your move and you will be required to turn in keys to the management office once the movers are finished.**
- A household representative **must** be present for the duration of the move.
- **All food and chemicals will need to be moved by the tenant.** If you require assistance moving these items, please contact the property manager.

To better prepare for your move, movers will complete a walkthrough of your apartment on **DATE**. We encourage you to be present for the walkthrough. If you are unable to attend, as outlined in your lease under *Access by Landlord*, a representative of property management will grant entry to the unit and remain present during the walkthrough.

If you have any questions, you may contact MANAGEMENT AGENT at **PHONE EMAIL**.

Sincerely,

Petersburg East I & II Housing Partners, LP

# **Petersburg East I & II Apartments**

## **Appendix C**

### **Estimated Relocation Budget**

# **Petersburg East I & II Apartments**

## **Appendix D**

### **Petersburg East I & II Rent Roll**

# **Petersburg East I & II Apartments**

## **Appendix E**

### **Petersburg East I & II Scope of Work**

# WORK WRITE-UP

RENOVATIONS FOR

## Petersburg East I

110 Croatan Drive, Petersburg, Virginia 23803

### **GENERAL DESCRIPTION:**

Built in 1975, Petersburg East is an existing apartment complex consisting of 100 apartments in 11 buildings on a 5.838-acre site. The gross building area is 106,000 sf. The buildings consist of wood frame construction with brick and vinyl siding exterior skins. Asphalt shingle roofs with interior stairwells.

ADDRESS: 110 Croatan Drive, Petersburg, Virginia 23803

THE SCOPE OF THE PROPOSED RENOVATIONS WILL INCLUDE UPDATING ITEMS THAT HAVE NOT BEEN RECENTLY UPDATED INCLUDING KITCHEN AND BATH UPGRADES AND REMODELS, ROOF REPLACEMENT, AND GENERAL REPAIRS THROUGHOUT THE PROPERTY AS WELL AS ENERGY EFFICIENT HVAC SYSTEMS IN ALL UNITS. THE SCOPE OF WORK INCLUDES CONVERTING 5 EXISTING UNITS TO ACCESSIBLE UNITS (5%) AND EQUIPPING 2 EXISTING UNITS FOR THE AUDITORY/VISUAL IMPAIRED (2%). ADDITIONALLY, THE RENOVATIONS WILL COMPLY WITH THE VIRGINIA HOUSING MINIMUM DESIGN & CONSTRUCTION STANDARDS

THE SCOPE OF THE SITE WORK INCLUDES DEMOLITION AND RECONSTRUCTION OF CONCRETE SIDEWALKS, ADDITIONAL ADA PARKING, RAMPS, AND CROSSWALKS TO ACHIEVE REQUIRED ACCESSIBLE ROUTES AND ADA PARKING SPACES. NEW ADA PARKING SIGNAGE WILL BE PROVIDED. NEW STEEL BOLLARDS TO BE PROVIDED AT EXISTING DUMPSTERS. THE PROPOSED WORK WILL COMPLY WITH THE VIRGINIA HOUSING MINIMUM DESIGN & CONSTRUCTION STANDARDS.

### **GENERAL CONTRACTOR**

MSI Construction  
208 Northern Trail  
Salem, VA 24153  
Marvin Loyd  
TEL. 540.598.7347  
mk.loyd@hotmail.com

### **ARCHITECT**

DNA WORKSHOP  
235 S. 14<sup>TH</sup> STREET  
BATON ROUGE, LA 70802  
JOSEPH D. NELSON - ARCHITECT  
TEL. 225.224.3363  
dyke@dna-workshop.com

## **CONTENTS:**

- I. Site Work
- II. Residential Buildings Exteriors
- III. Residential Unit Interiors
- IV. Unit Interiors - ADA Conversions

### **I. Site Work**

#### **1. Roads and Walks:**

- a) Provide new concrete pads for handicap parking at new locations.
- b) Provide new curb cuts and ramps at existing and new handicap parking spots.
- c) Repair existing and provide new concrete sidewalks for accessible routes ( approximately 42,500 sf total)
- d) Mill and overlay existing asphalt paving,
- e) Restripe parking lot.

#### **2. Lawns and Plantings:**

- a) Provide finish grading for positive drainage away from buildings and to prevent pooling.
- b) Provide a minimum distance of 6 inches between finished grade or mulch beds, and the bottom of siding and window sills.
- c) Provide a minimum of 5% slope away from foundation walls, for a minimum distance of 10 feet.
- d) Alternate acceptable solutions will be considered when required grades, slopes, or other site conditions make the above requirements infeasible.
- e) Seed and straw at disturbed areas.

#### **3. Lighting:**

- a) Provide new building wall packs at existing locations. Provide 1fc illumination (allowance per photometric findings).

#### **4. Dumpsters/Bollards:**

- a) Provide (2) new steel bollards behind each dumpster as indicated on plans.
- b) Provide Vinyl fence around each dumpster per Virginia Housing standards.
- c) Provide (1) new accessible dumpster.

#### **5. Amenities:**

- a) Provide one new accessible playground and associated equipment.
- b) Provide upgrades to leasing office and community room. All to be made accessible.

### **II. Residential Building Exteriors**

#### **1. Roofing:**

- a) Remove and replace all felt, flashing, drip edge, shingles, boots, and ridge vents, and replace with new.
- b) Replace all existing attic vents and pipe collars and replace all existing sealant.

- c) New shingles to be anti-fungal, composition shingles w/ 30-yr warranty.
  - d) Install drip edge on all sides of the roof.
  - e) Install ice barrier extending from eave's edge to a point 24 inches beyond the exterior wall cladding.
  - f) Repair and Replace areas of damaged vented vinyl soffits
  - g) Replace all sheathing where required per Virginia Housing standards.
2. Insulation: Provide additional attic insulation to increase R-value to R-38 min.
  3. Gutters: Remove and replace all existing gutters with new seamless gutters and downspouts for all buildings. Provide provisions at downspouts to avoid water drainage over sidewalks.
  4. Paint: Exterior Entry doors, door & window trim to be painted.
  5. Common Interior Stairways:
    - a) Stair Railing:
      - (1) Provide new metal handrails at all existing stairs.
      - (2) Provide new metal cane rails at all existing stairs.
    - b) Lighting: Remove and replace existing stairway and unit lights with new LED fixtures.
  6. Windows: Replace all window units with new vinyl frame windows that meet all energy code requirements.
  7. Vinyl Cladding Repairs: Repair any damaged vinyl siding or brick resulting from new window installation to match existing.
  8. Exterior Doors:
    - a) Entry Doors: Provide new metal entry doors with wood frame savers jambs, including new door hardware.

### **III. Residential Unit Interiors**

1. Two (2) units to receive hearing and sight impaired upgrades.
  - a) Strobes for smoke detectors
  - b) Strobes for door bell.
2. Gypsum Repairs: Provide allowance for drywall to be repaired where damaged.
3. Entry:
  - a) Replace existing walk off pad flooring with new vinyl plank flooring.
  - b) Provide new underlayment at new vinyl plank flooring.
4. Openings
  - a) Provide new 1" vinyl miniblinds at all new windows.
  - b) Replace damaged interior doors with new (10%), to include new hardware. New interior doors to be painted, paint finish is to be flat.
  - c) Remove and replace all door handle hardware with new lever style hardware.
5. Living / Dining
  - a) Lighting: New LED interior lighting fixtures at existing locations.



## 6. Kitchen

- a) Refrigerator: New Energy Star refrigerators.
- b) Ranges: Provide new ranges and recirculating range hoods.
- c) Dishwasher: New Energy Star dishwasher.
- d) Millwork: Remove and Replace all cabinetry including laminated counter tops. All cabinets to meet Virginia Housing standards.
- e) Plumbing: Replace kitchen sink, faucet, supplies, and trim.
- f) Flooring: Replace flooring with vinyl plank flooring to include new shoemould trim. Provide new underlayment at new vinyl plank flooring.
- g) Paint: Paint room complete, repairing gypsum before paint. Paint Finish is to be Flat.
- h) Lighting: New LED interior lighting fixtures at existing locations.
- i) Fire equipment: Dry-chemical fire-extinguishing equipment (Range Queens).

## 7. Mechanical

- a) HVAC: Install new split systems (15.5 SEER min). Reuse existing duct and set lines.
- b) Water Heater: New energy efficient gas water heaters with pans. Tie into existing drain.
- c) Provide overflow sensor and pump per Virginia Housing standards.

## 8. Electrical

- a) Replace existing GFCI's with new
- b) Existing hardwired/wireless interconnected smoke detector system to remain. Replace devices only at existing locations.
- c) Provide new LED light fixtures throughout at existing locations

## 9. Bedrooms

- a) Lighting: New LED interior lighting fixtures at existing locations.
- b) Smoke Detector: Replace existing smoke detectors (1/floor).

## 10. Bathrooms:

- a) Tubs:
  - (1) Replace Bathtubs, Showers, and Surrounds.
  - (2) Install new tub & shower diverters at all new and existing tubs & showers.
- b) Toilet: Replace commode with Water Sense unit with seat.
  - (1) Relocate Flange in 3-Bedroom Units to make Toilet Centerline 18" off wall.
- c) Lavatory: Replace vanity cabinet, countertop and sink, and faucet with new P-traps and supply lines.
  - (1) Vanity Cabinet to be convertible in 2-Bedroom Hall Bathrooms (32 total).
- d) Flooring: Flooring: Replace flooring with vinyl plank flooring to include new shoemould trim. Provide new underlayment at new vinyl plank flooring.
- e) Accessories: New bath accessories.
- f) Paint: Paint room complete, repairing gypsum before paint. Paint room complete, repairing gypsum before paint. Paint Finish is to be Flat.
- g) Exhaust Fan: Install new exhaust fan at existing location (provide power and switch).

- h) Lighting: New LED interior lighting fixtures

#### **IV. Unit Interiors – ADA Conversions**

1. In addition to the applicable scope found above in section V, below are additional requirements for the five (5) existing units will be reconfigured and converted to be fully accessible Verify items required on site.
  - a) All switches and receptacles to be ADA compliant in height.
  - b) Unit entry door to have ADA compliant hardware and threshold.
  - c) All usable passage doors to be 3'-0" with accessible hardware.
  - d) Provide blocking in walls and install grab bars at all tubs / roll in showers and toilets.
  - e) Walls: Reconfigure walls as needed to provide accessibility throughout units to bring up to current standards. Architect to verify - RE: Drawings.
  - f) Paint: ADA units to be painted in full. Paint Finish is to be Flat.
  - g) Appliances: Provide new ADA compliant appliances.
  - h) Millwork: Remove and Replace all cabinetry with new ADA compliant cabinetry in kitchens and bathrooms. RE: Plans
  - i) Accessories: New ADA compliant bath accessories.
  - j) Plumbing: Replace all fixtures and faucets with new ADA Compliant fixtures. Replace all tubs with new ADA compliant tubs, surround, seat, and grab bars. Install new tub valve and trim.

# WORK WRITE-UP

RENOVATIONS FOR

## Petersburg East II

110 Croatan Drive, Petersburg, Virginia 23803

### **GENERAL DESCRIPTION:**

Built in 1976, Petersburg East II is an existing apartment complex consisting of 68 apartments in 81 buildings on a 4.762-acre site. The gross building area is 75,000 sf. The buildings consist of wood frame construction with brick and vinyl siding exterior skins. Asphalt shingle roofs with interior stairwells.

ADDRESS: 2385 Navajo Avenue, Petersburg, Virginia 23803

THE SCOPE OF THE PROPOSED RENOVATIONS WILL INCLUDE UPDATING ITEMS THAT HAVE NOT BEEN RECENTLY UPDATED INCLUDING KITCHEN AND BATH UPGRADES AND REMODELS, ROOF REPLACEMENT, AND GENERAL REPAIRS THROUGHOUT THE PROPERTY AS WELL AS ENERGY EFFICIENT HVAC SYSTEMS IN ALL UNITS. THE SCOPE OF WORK INCLUDES CONVERTING 3 EXISTING UNITS TO ACCESSIBLE UNITS (5%) AND EQUIPPING 2 EXISTING UNITS FOR THE AUDITORY/VISUAL IMPAIRED (2%). ADDITIONALLY, THE RENOVATIONS WILL COMPLY WITH THE VIRGINIA HOUSING MINIMUM DESIGN & CONSTRUCTION STANDARDS

THE SCOPE OF THE SITE WORK INCLUDES DEMOLITION AND RECONSTRUCTION OF CONCRETE SIDEWALKS, ADDITIONAL ADA PARKING, RAMPS, AND CROSSWALKS TO ACHIEVE REQUIRED ACCESSIBLE ROUTES AND ADA PARKING SPACES. NEW ADA PARKING SIGNAGE WILL BE PROVIDED. NEW STEEL BOLLARDS TO BE PROVIDED AT EXISTING DUMPSTERS. THE PROPOSED WORK WILL COMPLY WITH THE VIRGINIA HOUSING MINIMUM DESIGN & CONSTRUCTION STANDARDS.

### **GENERAL CONTRACTOR**

MSI Construction  
208 Northern Trail  
Salem, VA 24153  
Marvin Loyd  
TEL. 540.598.7347  
mk.loyd@hotmail.com

### **ARCHITECT**

DNA WORKSHOP  
235 S. 14<sup>TH</sup> STREET  
BATON ROUGE, LA 70802  
JOSEPH D. NELSON - ARCHITECT  
TEL. 225.224.3363  
dyke@dna-workshop.com

## **CONTENTS:**

- I. Site Work
- II. Residential Buildings Exteriors
- III. Residential Unit Interiors
- IV. Unit Interiors - ADA Conversions

### **I. Site Work**

#### **1. Roads and Walks:**

- a) Provide new concrete pads for handicap parking at new locations.
- b) Provide new curb cuts and ramps at existing and new handicap parking spots.
- c) Repair existing and provide new concrete sidewalks for accessible routes ( approximately 22,500 sf total)
- d) Mill and overlay existing asphalt paving,
- e) Restripe parking lot.

#### **2. Lawns and Plantings:**

- a) Provide finish grading for positive drainage away from buildings and to prevent pooling.
- b) Provide a minimum distance of 6 inches between finished grade or mulch beds, and the bottom of siding and window sills.
- c) Provide a minimum of 5% slope away from foundation walls, for a minimum distance of 10 feet.
- d) Alternate acceptable solutions will be considered when required grades, slopes, or other site conditions make the above requirements infeasible.
- e) Seed and straw at disturbed areas.

#### **3. Lighting:**

- a) Provide new building wall packs at existing locations. Provide 1fc illumination (allowance per photometric findings).

#### **4. Dumpsters/Bollards:**

- a) Provide (2) new steel bollards behind each dumpster as indicated on plans.
- b) Provide new vinyl fence enclosure around dumpster.
- c) Provide (1) new accessible dumpster.

#### **5. Amenities:**

- a) Provide one new accessible playground and associated equipment. To be located adjacent to office and community room.
- b) Provide upgrades to leasing office and community room.

### **II. Residential Building Exteriors**

#### **1. Roofing:**

- a) Remove and replace all felt, flashing, drip edge, shingles, boots, and ridge vents, and replace with new.

- b) Replace all existing attic vents and pipe collars and replace all existing sealant.
  - c) New shingles to be anti-fungal, composition shingles w/ 30-yr warranty.
  - d) Install drip edge on all sides of the roof.
  - e) Install ice barrier extending from eave's edge to a point 24 inches beyond the exterior wall cladding.
  - f) Repair and Replace areas of damaged vented vinyl soffits
2. Insulation: Provide additional attic insulation to increase R-value to R-38 min.
  3. Gutters: Remove and replace all existing gutters with new seamless gutters and downspouts for all buildings. Provide provisions at downspouts to avoid water drainage over sidewalks.
  4. Paint: Exterior Entry doors, door & window trim to be painted.
  5. Common Interior Stairways:
    - a) Stair Railing:
      - (1) Provide new metal handrails at all existing stairs.
      - (2) Provide new metal cane rails at all existing stairs.
    - b) Lighting: Remove and replace existing stairway and unit lights with new LED fixtures.
  6. Windows: Replace all window units with new vinyl frame windows that meet current energy code requirements.
  7. Vinyl Cladding Repairs: Repair any damaged vinyl siding resulting from new window installation to match existing.
  8. Exterior Doors:
    - a) Entry Doors: Provide new metal entry doors with wood frame savers jambs, including new door hardware.

### **III. Residential Unit Interiors**

1. Two (2) units to receive hearing and sight impaired upgrades.
  - a) Strobes for smoke detectors
  - b) Strobes for doorbell.
2. Gypsum Repairs: Provide allowance for drywall to be repaired where damaged.
3. Entry:
  - a) Replace existing walk off pad flooring with new vinyl plank flooring.
  - b) Provide new underlayment at new vinyl plank flooring.
4. Openings
  - a) Provide new 1" vinyl miniblinds at all new windows.
  - b) Replace damaged interior doors with new, to include new hardware. New interior doors to be painted, paint finish is to be flat.
  - c) Remove and replace all door handle hardware with new lever style hardware.
5. Living / Dining
  - a) Lighting: New LED interior lighting fixtures at existing locations.

## 6. Kitchen

- a) Refrigerator: New Energy Star refrigerators.
- b) Ranges: Provide new ranges and recirculating range hoods.
- c) Dishwasher: New Energy Star dishwasher.
- d) Millwork: Remove and Replace all cabinetry including laminated counter tops. All cabinets to meet Virginia Housing standards.
- e) Plumbing: Replace kitchen sink, faucet, supplies, and trim.
- f) Flooring: Replace flooring with vinyl plank flooring to include new shoemould trim. Provide new underlayment at new vinyl plank flooring.
- g) Paint: Paint room complete, repairing gypsum before paint. Paint Finish is to be Flat.
- h) Lighting: New LED interior lighting fixtures at existing locations.
- i) Fire equipment: Dry-chemical fire-extinguishing equipment (Range Queens).

## 7. Mechanical

- a) HVAC: Install new split systems (15.5 SEER min). Reuse existing duct and set lines.
- b) Water Heater: New energy efficient gas water heaters with pans. Tie into existing drain.

## 8. Electrical

- a) Replace existing GFCI's with new
- b) Existing hardwired/wireless interconnected smoke detector system to remain. Replace devices only at existing locations.
- c) Provide new LED light fixtures throughout at existing locations

## 9. Bedrooms

- a) Lighting: New LED interior lighting fixtures at existing locations.
- b) Smoke Detector: Replace existing smoke detectors (1/floor).

## 10. Bathrooms:

- a) Tubs:
  - (1) Replace Bathtubs, Showers, and Surrounds. Contractor to verify on site.
  - (2) Install new tub & shower diverters at all new and existing tubs & showers.
- b) Toilet: Replace commode with Water Sense unit with seat.
  - (1) Relocate Flange in 3-Bedroom Units to make Toilet Centerline 18" off wall.
- c) Lavatory: Replace vanity cabinet, countertop and sink, and faucet with new P-traps and supply lines.
- d) Flooring: Flooring: Replace flooring with vinyl plank flooring to include new shoemould trim. Provide new underlayment at new vinyl plank flooring.
- e) Accessories: New bath accessories.
- f) Paint: Paint room complete, repairing gypsum before paint. Paint room complete, repairing gypsum before paint. Paint Finish is to be Flat.
- g) Exhaust Fan: Install new exhaust fan at existing location (provide power and switch).
- h) Lighting: New LED interior lighting fixtures

#### IV. Unit Interiors – ADA Conversions

1. In addition to the applicable scope found above in section V, below are additional requirements for the three (3) existing units will be reconfigured and converted to be fully accessible. Verify items required on site.
  - a) All switches and receptacles to be ADA compliant in height.
  - b) Unit entry door to have ADA compliant hardware and threshold.
  - c) All usable passage doors to be 3'-0" with accessible hardware.
  - d) Provide blocking in walls and install grab bars at all tubs / roll in showers and toilets.
  - e) Walls: Reconfigure walls as needed to provide accessibility throughout units to bring up to current standards. Architect to verify - RE: Drawings.
  - f) Paint: ADA units to be painted in full. Paint Finish is to be Flat.
  - g) Appliances: Provide new ADA compliant appliances.
  - h) Millwork: Remove and Replace all cabinetry with new ADA compliant cabinetry in kitchens and bathrooms. RE: Plans
  - i) Accessories: New ADA compliant bath accessories.
  - j) Plumbing: Replace all fixtures and faucets with new ADA Compliant fixtures. Replace all tubs with new ADA compliant tubs, surround, seat, and grab bars. Install new tub valve and trim.

# **Petersburg East I & II Apartments**

## **Appendix F**

### **Petersburg East I & II Construction Schedule**



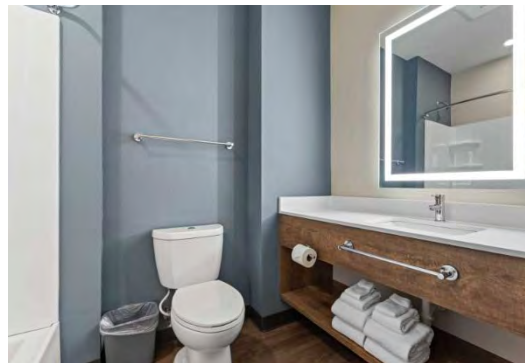
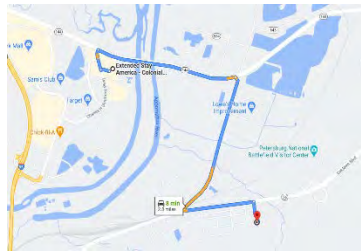
# **Petersburg East I & II Apartments**

## **Appendix G**

### **Off-site Accommodations**

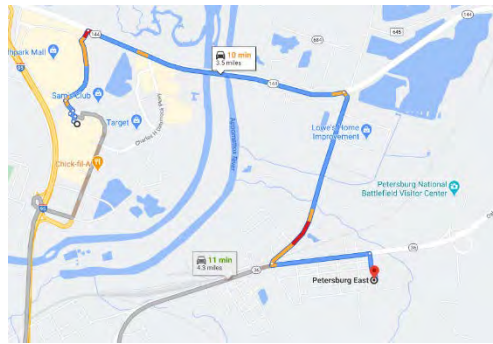
## Petersburg East I & II Apartments Temporary Relocation

Property	Daily Cost	Miles from Project	Units Available Monthly	Amenities	Website
Extended Stay America – Colonial Heights – Fort Lee	\$100	2.8 miles		2 queen beds, dining area, kitchenette (no range). High speed internet, parking, fitness center, on-site laundry	<a href="https://www.extendedstayamerica.com/hotels/va/richmond/colonial-heights-fort-lee">https://www.extendedstayamerica.com/hotels/va/richmond/colonial-heights-fort-lee</a>



## Petersburg East I & II Apartments Temporary Relocation

Property	Daily Cost	Miles from Project	Units Available Monthly	Amenities	Website
Hilton Garden Inn Richmond South/Southpark	\$120	3.5 miles		2 Queen beds, 1 bathroom, , high speed internet and cable/satellite included, laundry center, fitness center, indoor pool, business center, parking	<a href="https://www.hilton.com/en/hotels/ricspgi-hilton-garden-inn-richmond-south-southpark/">https://www.hilton.com/en/hotels/ricspgi-hilton-garden-inn-richmond-south-southpark/</a>



# **Petersburg East I & II Apartments**

## **Appendix H**

### **COVID-19**

## **Resident Protection**

Petersburg East I & II Housing Partners, LP will keep up to date on the National, State, and local guidance concerning COVID-19 protection orders. Property Management will send email blasts containing major updates to all residents who have provided email contacts. Additionally, these updates will be posted around Petersburg East I & II and on resident doors when email is not available.

For the safety of all Petersburg East I & II residents and staff, it will be requested that residents or staff who have tested positive for COVID-19, or have had close contact with someone who has tested positive, notify Property Management. Notification that someone at Petersburg East I & II has tested positive for the virus will be communicated to residents and staff, along with the last time the person visited any of the common areas of Petersburg East I & II Apartments. HIPPA regulation will be strictly followed and neither the name nor the apartment number of the individual will be disclosed.

Most common areas of Petersburg East I & II will remain closed as instructed by government official. Common areas that must remain available to residents, such as the laundry room, will be stocked with sanitizer, disinfected daily, and residents will be asked to access the space one household at a time.

## **Temporary Relocation during COVID-19**

Originally, the relocation plan of Petersburg East I & II Apartments called for the provision of shared hospitality suite for residents that need to vacate their unit from 8am to 4pm during construction. While the COVID-19 pandemic persists, hospitality suites will still be provided, but each household will have their own designated unit or trailer to use as their hospitality suite, sharing will not be permitted. Hospitality suites and/or temporary trailers will be cleaned between household usages. Surfaces will be wiped down and cleaning staff will wear the appropriate Personal Protective Equipment and per CDA guidance.

CDA guidance for cleaning can be found at:

[https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cleaning-disinfection.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprepare%2Fcleaning-disinfection.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cleaning-disinfection.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprepare%2Fcleaning-disinfection.html)

If a positive case of COVID-19 occurs at Petersburg East I & II, CDC guidance on cleaning common areas, hospitality suites, and temporary trailers (if used) will be completed per the CDC guidelines found at:

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

K

Documentation of  
Development Location

K.1

Revitalization Area  
Certification



# 2021 and 2022 Small DDAs and QCTs

110 Croatan Dr, Petersburg, VA 23803

Go

Select a State

Select a County

Go

Map Options : Clear | Reset | Full Screen

QCT Legend:

Tract Outline



LIHTC Project



2022 Qualified Census Tracts

SADDA Legend:

FMR Boundary

ZCTA Boundary



2022 Small DDA



Part DDA



Non Metro DDA

Hide the overview

The 2022 Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs) are effective January 1, 2022. The 2022 designations use data from the 2010 Decennial census. The designation methodology is explained in the federal Register notice published September 9, 2021

### Map Options

16 Current Zoom Level

Show Difficult Development Areas (Zoom 7+)

Color QCT Qualified Tracts (Zoom 7+)

Show Tracts Outline (Zoom 11+)

Show FMR Outlines (Zoom 4+)

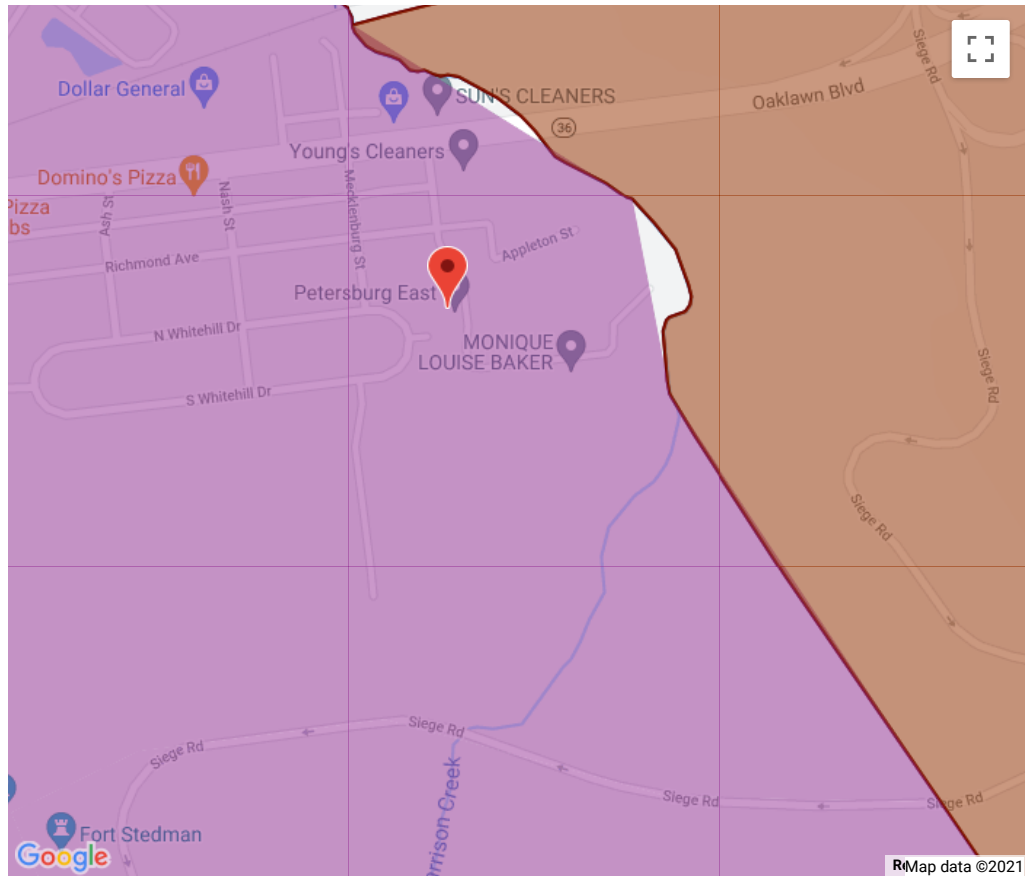
Show LIHTC Projects (Zoom 11+)

[Click here for full screen map](#)

### Select Year

2022

2021



◀ 1.7K

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- Organization Chart
- PD&R Events
- HUD Secretary's Awards

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- Periodicals
- Regulatory Barriers Clearinghouse
- Reports



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### HUD USER

P.O. Box 23268, Washington, DC 20026-3268


**Toll Free:** 1-800-245-2691 **TDD:** 1-800-927-7589

**Local:** 1-202-708-3178 **Fax:** 1-202-708-9981


K.2

Location Map



KEY:  
Subject Property 



KEY:  
Subject Property 

K.3

Surveyor's Certification of  
Proximity to Public  
Transportation

**Surveyor's Certification of Proximity to Transportation**

DATE: 11/16/2021

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

RE: 2021 Tax Credit Reservation Request

Name of Development: Petersburg East I & II Apartments

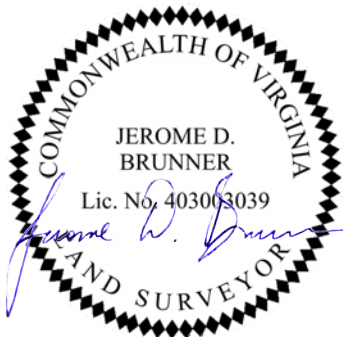
Name of Owner: Petersburg East Housing Partners, LP

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 1/2 mile of the nearest access point to an existing commuter rail, light rail or subway station; **or**
- 1,320 feet or 1/4 mile of the nearest access point to an existing public bus stop.



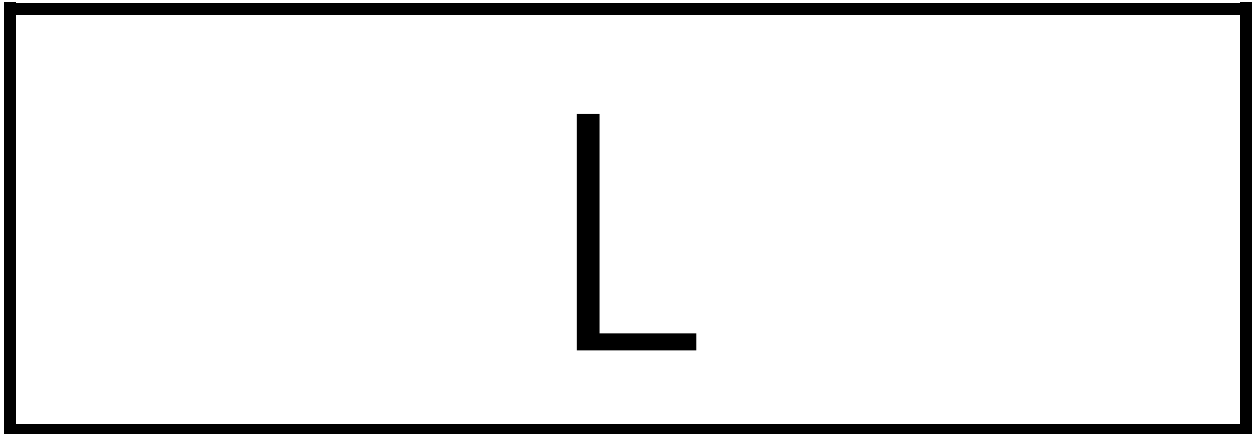
Blew & Associates, P.A.

Firm Name

By: Jerome D. Brunner

Its: Professional Land Surveyor

Title



PHA/Section 8 Notification  
Letter

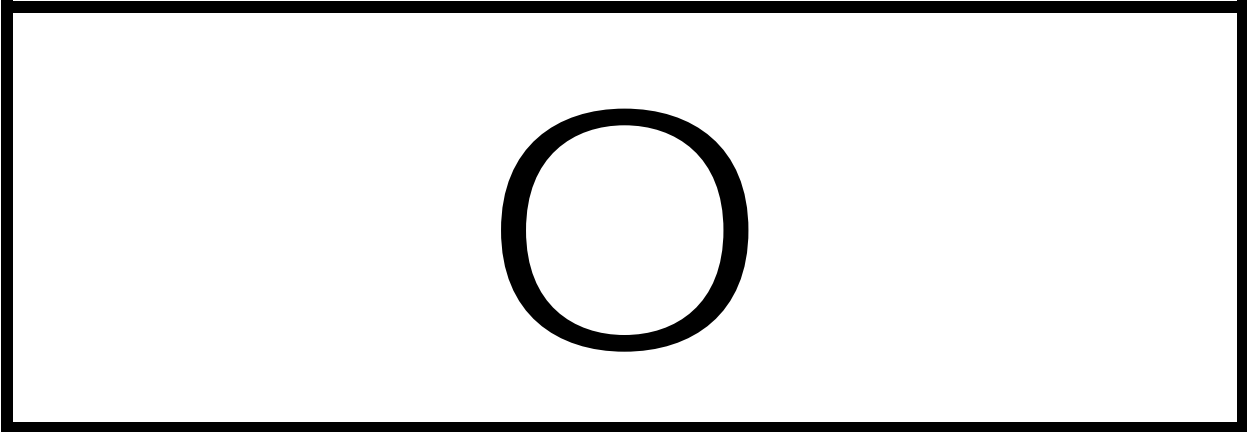
M

Locality CEO Response  
Letter



**N**

Homeownership Plan



O

Plan of Development  
Certification Letter

P

Copies of 8609s to  
Certify Developer  
Experience and  
Partnership agreements



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION  
EXAMINATION OPERATIONS  
LOW INCOME HOUSING UNIT

GUARDIAN COURT HOUSING PARTNERS, LP  
1700 7TH AVENUE, SUITE 2000  
SEATTLE, WA 98101

Date: February 19, 2020

Reply to: K. Roane  
Internal Revenue Service  
Examination, Stop 4-E08.142  
Philadelphia, PA 19255-0049  
Phone: 267-466-4576  
Fax: 855-242-6545

Owner's TIN: xx-xxx0088  
BIN(s): KY 19-13201 TO 13206  
Year: 2018

Dear Taxpayer:

You have submitted a Form 8609 Part II, Low-Income Housing Credit Allocation and Certification that has inconsistencies.

- Line 7, eligible basis amount is blank.
- Line 10a, election to begin credit period was not checked.
- The first year of the credit period (by the signature line) is not the same as Line 5, date building placed in service year, and Box 10a elects to begin the credit in the year it was placed in service (10a box is checked "No")
- The first year of the credit period (by the signature line) is the same as Line 5, date building placed in service year, and Box 10a elects to begin the credit in the year after it was placed in service (10a box is checked "Yes").
- There are errors in the signature box. (The signature is missing, the printed name is illegible, or the first year of credit period is blank.)

Please correct the checked errors and resubmit the Form 8609, Part II within 30 days. Thank you for your cooperation in this matter. If you have any questions regarding this letter, you may call or write to the IRS Contact at the Philadelphia Service Center in Philadelphia, PA shown on the front of this letter. An employee there may be able to help you, but it is your responsibility to send the required information.

Sincerely,

Lisa Parker  
Examination Operations Manager  
Philadelphia Campus

Q

Documentation of  
Rental Assistance, Tax  
Abatement and/or  
Existing HUD/RD

ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT  
SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT  
(UNINSURED PROJECT)

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT OF SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT (herein called the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the United States of America, acting through the **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** (herein called "HUD"), **WHITEHILL ESTATES-I, L.P.**, a a Virginia limited partnership (herein called the "Seller"), and **PETERSBURG EAST HOUSING PARTNERS, LP**, a a Virginia limited partnership (herein called the "Buyer").

**WHEREAS**, HUD and Petersburg East Section I, pursuant to Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f, entered into a Section 8 Housing Assistance Payments Contract (herein called the "HAP Contract") identified as HAP Contract Number VA36M000157 for units in Petersburg East I (herein called the "Property"), a copy of which is attached hereto as "Exhibit A." Said HAP Contract was assigned to, and assumed by, the Seller by an assignment of HAP Contract, executed by the prior owner and the Seller and approved by HUD, dated on or about June 16, 2004;

**WHEREAS**, the Seller and an affiliate of the Buyer have entered into a Purchase and Sale Agreement, as assigned to the Buyer, dated as of September 10, 2020, wherein the Seller agrees to sell the Property and the Buyer agrees to purchase the Property, including, without limitation, the improvements situated thereon, and has agreed to accept the assignment of and assume all obligations under the HAP Contract;

**WHEREAS**, the Buyer has submitted to the Secretary of HUD (herein called the "Secretary") an application and documents in support thereof (herein collectively referred to as the "Application") requesting the Secretary's approval of the proposed assignment of the HAP Contract to the Buyer as set forth in the aforesaid Purchase and Sale Agreement; and

**WHEREAS**, the Seller and the Buyer mutually desire to assign the HAP Contract; and it is necessary to and HUD and the Buyer mutually desire to amend the HAP Contract to allow for physical inspections in accordance with 24 CFR Part 5, Subpart G and require financial reporting in accordance with 24 CFR Part 5, Subpart H.

**NOW, THEREFORE**, in consideration of the foregoing, the sum of Ten Dollars (\$10.00) in hand paid and other good consideration, the receipt of which is hereby acknowledged, and in order to comply with the requirements of the Secretary, the United States Housing Act of 1937, and the regulations adopted pursuant thereto, the parties hereto agree as follows:

1. The Seller hereby irrevocably assigns the HAP Contract to the Buyer together with all rights and obligations in and under said HAP Contract.

2. Effective as of the date of this Agreement the Buyer agrees to assume and to be bound by said HAP Contract as modified herein, and is responsible for filing the Annual Financial Statement (AFS) from the date of this Agreement through the end of the Buyer's fiscal year.
3. Effective as of the date of this Agreement, the Seller is released from any future obligations under the HAP Contract, excepting that the Seller shall remain responsible for filing the AFS through the day before this Agreement if said HAP Contract includes an AFS filing requirement. Nothing in this Agreement shall waive, compromise, impair, or prejudice any right HUD may have against the Seller for any violation of the HAP Contract that may have occurred prior to the date of this Agreement.
4. Part II of the HAP Contract shall be amended as follows to include the following provisions:

**Physical Conditions Standards and Inspection Requirements.** The Owner shall comply with the Physical Condition Standards and Inspection Requirements of 24 CFR Part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Properties of 24 CFR Part 200, Subpart P, including any changes in the regulation and related Directives. This obligation shall apply both during the current term of the HAP Contract and during each successive renewal term.

**Financial Reporting Standards.** The Owner shall comply with the Uniform Financial Reporting Standards of 24 CFR Part 5, Subpart H, including any changes in the regulation and related Directives. This obligation shall apply during the current term of the HAP Contract and for each successive renewal term.

5. This Agreement shall be construed under the laws of the Commonwealth of Virginia and to the extent inconsistent with the laws of the Commonwealth of Virginia, the laws of the United States of America. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
6. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.
7. The Secretary, by the signature of his authorized representative below, consents to assignment made hereby. Said consent shall be void *ab initio* if the Secretary determines that Buyer, or any principal or interested party of the Buyer, is debarred, suspended or subject to a limited denial of participation under 24 CFR Part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

**NOTHING** in this Agreement shall in any way impair the HAP Contract or alter, waive, annul, vary or affect any provision, condition, covenant therein, except as herein specifically provided, or affect or impair any rights, powers, or remedies under the HAP Contract, it being the intent of the parties hereto that the terms and conditions of the HAP Contract shall continue in full force and effect except as amended hereby.

**IN WITNESS WHEREOF**, the Seller, the Buyer, and HUD have caused this agreement to be executed.

[SIGNATURE PAGES ATTACHED]



**SELLER:**

**WHITEHILL ESTATES-I, L.P.,**  
a Virginia limited partnership

By: Whitehill, Inc., a Virginia corporation,  
its general partner

By: James Kincaid  
Name: James Kincaid  
Title: PRESIDENT

[SIGNATURES CONTINUE ON NEXT PAGE]

**BUYER:**

**PETERSBURG EAST HOUSING PARTNERS, LP,**  
a Virginia limited partnership

By: Petersburg East Housing Management, LLC,  
a Virginia limited liability company,  
Its: General Partner

By: Vitus Development IV, LLC,  
a Delaware limited liability company,  
Its: Sole Member and Manager

By:   
\_\_\_\_\_  
Stephen R. Whyte  
Title: President

[SIGNATURES CONTINUE ON NEXT PAGE]

**HUD:**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and Title (Print)

Project Name: Petersburg East I  
Project Location: Petersburg, Virginia  
HAP Contract No. VA36M000157

**EXHIBIT A**

HAP CONTRACT  
<Attached>

**ASSIGNMENT OF  
HOUSING ASSISTANCE PAYMENTS CONTRACT**

THIS ASSIGNMENT OF HOUSING ASSISTANCE PAYMENTS CONTRACT, is made as of this 11th day of June, 2004, by and between Petersburg East, Section 1, a Virginia limited partnership ("Assignor") and Whitehill Estates - I, L.P., a Virginia limited partnership ("Assignee") and consented to and approved by the Secretary of the U.S. Department of Housing and Urban Development acting by and through the Assistant Secretary for Housing - Federal Housing Commissioner and his successors.

WHEREAS, Assignor is entitled to receive housing assistance payments under a Housing Assistance Payments Contract, Section 8 Contract No. VA36-M000-157 (the "Contract"), with the U.S. Department of Housing and Urban Development ("HUD"), for Petersburg East I Apartments (the "Project") with an FHA Project No. of 05144224; and

WHEREAS, Assignor is transferring the Project to Assignee pursuant to a limited or special warranty deed; and

WHEREAS, Assignor also desires to assign all of its right, title, interest and obligations in and to the Contract to Assignee; and

WHEREAS, Assignee desires to accept and assume all of the rights, title, interest and obligations to the Contract from Assignor; and

WHEREAS, HUD must consent to this Assignment.

NOW, THEREFORE, the parties hereto agree as follows:

1. Assignor hereby transfers, assigns, conveys and sets over all of its right, title, and interest in and to the Contract to Assignee from and after the date hereof.
2. Assignee, its successors and assigns, hereby accepts and acknowledges any and all of the obligations, duties and rights created by the Contract arising on or after the date hereof.
3. Full consideration has been given by and accepted by Assignor and Assignee for this assignment.
4. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding all parties hereto, notwithstanding, that all the parties have not signed the same counterpart.
5. The assignment hereunder shall not be effective until Assignor shall have transferred title to Assignee and HUD shall have approved such assignment.

6. HUD hereby approves the Assignment of the Contract from Assignor to Assignee and the Assumption of the Contract by Assignee.
7. This Assignment does not act as a waiver or release of any claim by HUD in connection with the Assignor's failure to have fully discharged all of its duties and responsibilities under the HAP Contract.

IN WITNESS WHEREOF, the undersigned have caused this Assignment to be executed under seal as of the day and year first written above.

**ASSIGNOR:**

**PETERSBURG EAST, SECTION 1, a**  
Virginia limited partnership

By: National Partnership Investments Corp.,  
its General Partner

By: 

Name: David Robertson

Title: Executive Vice-President

**[SIGNATURES CONTINUED ON NEXT PAGE]**

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

**ASSIGNEE:**

WHITEHILL ESTATES - I, L.P.,  
a Virginia limited partnership

By: Whitehill Inc., its General Partner

By: James Kincaid  
Name: James Kincaid  
Title: Vice President

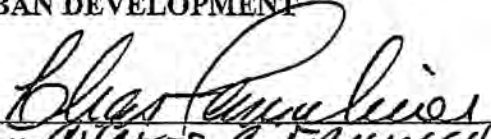
[SIGNATURES CONTINUED ON NEXT PAGE]



[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

CONSENTED TO AND APPROVED BY:

SECRETARY OF HOUSING AND  
URBAN DEVELOPMENT

By:   
Name: CHARLES C. FANNELL  
Authorized Agent

[SIGNATURES CONTINUED ON NEXT PAGE]

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM  
ADDITIONAL ASSISTANCE PROGRAM FOR PROJECTS WITH HUD-INSURED  
AND HUD-HELD MORTGAGES,  
24 C.F.R. PART 886, SUBPART A

HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

Term No. 1

This Contract is between the United States of America, acting through the Department of Housing and Urban Development (called "HUD"), and Petersburg East Section 1 by National Partnership Investment Assoc. II General Par (called "Owner"). This Contract is executed pursuant to the United States Housing Act of 1937 (called the "Act"), 42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq. The housing project covered by this Contract is identified as follows:

Project Name: Petersburg East I City: Petersburg  
Street Address: 110 Croatan Drive  
Section 8 No.: VA36-M000-107 County: N/A  
FHA Project No.: 051-44224-LD State: Virginia

Section 1. Definitions

- a. Family -- one or more persons eligible for and receiving Section 8 housing assistance payments in accordance with HUD regulations and administrative procedures.
- b. Contract Rent -- the rent HUD authorizes the Owner to collect for the contract unit.
- c. Utility Allowance -- an amount determined or approved by HUD as an allowance for the cost of utilities (except telephone).
- d. Gross Rent -- the sum of the contract rent and any utility allowance. If there is no utility allowance, gross rent equals contract rent.
- e. Gross Family Contribution -- the amount HUD regulations require the family to pay monthly towards the gross rent.
- f. Net Family Contribution -- the Gross Family Contribution less any utility allowance. If this amount is positive, it represents the amount HUD regulations require the family to pay monthly to the Owner. If this amount is negative, the family makes no payment to the Owner. Instead, the Owner pays this amount monthly to the family.

Section 2. Content of Contract. This Contract includes the exhibits listed below and the Affirmative Fair Housing Marketing Plan approved by HUD on \_\_\_\_\_ which is incorporated by reference.

- a. Exhibit A: Equal Opportunity Requirements
- b. Exhibit B: Schedule of Units, Rents, Equipment, Utilities and Services
- c. Additional Exhibits:

Section 3. Scope of Contract. This Contract and its exhibits comprise the entire agreement between the parties to this Contract with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Contract, in any applicable regulations, in HUD's administrative procedures, or in agreements entered into in writing (e.g., the project Regulatory Agreement).

Section 4. Housing Owner's Certification of Authority. The Owner certifies that the Owner has the legal authority to enter into this Contract and to lease the dwelling units covered by this Contract.

Section 5. Term of Contract. This Contract shall run for a period of five years, beginning October 1, 19 87, and continuing through September 30, 19 92. This Contract may be renewed for 0 additional five-year periods at the option of the Owner and HUD.

Section 6. Maximum Amount of Housing Assistance Payments.

- a. Maximum Annual Contract Commitment. Notwithstanding any other provision of this Contract (other than paragraph b) or any other contract between HUD and the Owner, HUD shall not be obligated to make assistance payments and pay PHA fees, if any, in excess of \$ 80,000 under this Contract during any contract year. In addition, HUD shall not be obligated to pay assistance for more than the total number of contract units shown in Exhibit B.
- b. HAP Reserve (Formerly Project Account). In order to ensure that housing assistance payments will be increased on a timely basis to cover increases in contract rents or decreases in family incomes, HUD shall establish and maintain a HAP Reserve out of amounts by which the maximum annual contract commitment exceeds amounts paid under the Contract for each contract year. This Reserve shall be maintained in the name of the project. The amount of housing assistance paid for each contract year may exceed the maximum annual contract commitment specified in paragraph 6a to the extent unused contract authority is available in the HAP Reserve.

- (1) The HAP Reserve may be used only for payment of housing assistance payments or other costs specifically authorized by HUD.
- (2) If HUD at any time determines that the HAP Reserve has accumulated unused contract authority in excess of the amount the project will need through the current contract year, HUD may reduce the HAP Reserve by the amount HUD determines to be excessive.
- (3) Any amount remaining in the HAP Reserve at the end of the term of this Contract shall be applied as directed by HUD in accordance with applicable law.

**Section 7. Housing Assistance Payments and PHA Fees.** HUD shall make payments for the purposes identified in this section. Eligibility for, and the amount of, any housing assistance payments will be determined in accordance with HUD's regulations and administrative procedures.

- a. **Monthly Rental Assistance.** For each contract unit occupied by an eligible family in accordance with this Contract, HUD will pay the Owner the difference between the HUD-approved gross rent and the Gross Family Contribution required by HUD regulations and administrative procedures. From this amount, the Owner will pay families any amounts due them pursuant to HUD regulations and administrative procedures and Section 15c of this Contract.
- b. **Compensation for Vacancy Loss.** If an occupied contract unit becomes vacant, HUD will pay the Owner 80 percent of the contract rent for up to the lesser of 60 calendar days following the date the unit became vacant or the actual number of days the unit remained vacant. Such payments will be made only in accordance with the following conditions and limitations:
  - (1) The Owner shall be entitled to vacancy payments under this paragraph b only if the Owner:
    - (a) immediately upon learning of the vacancy or prospective vacancy: (1) notified HUD of the vacancy and the reasons for the vacancy; and (2) took and continued to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on the waiting list and advising them of the availability of the unit;
    - (b) has not rejected any eligible applicant except for good cause acceptable to HUD;
    - (c) when the vacancy was created by the Owner's action, administered the termination of tenancy, eviction and all related notices in accordance with State and local law, the lease and HUD regulations and administrative procedures.
  - (2) HUD will pay vacancy payments only for those days on which the unit was in decent, safe and sanitary condition and available for occupancy.
  - (3) If the Owner collects other payments toward the rent due for the period HUD pays vacancy payments, the Owner shall pay to HUD, or pay as HUD directs, any amount by which the sum of the HUD vacancy payments and these other payments exceeds the contract rent. "Other payments" will include rent collected from or on behalf of the former tenant, security deposits applied toward the rent, and payments from any other source.
- c. **Compensation for Damages, Unpaid Rent and Other Amounts Due Under the Lease.** If a family vacates a contract unit and owes rent, other amounts due under the lease, or has left damages in excess of normal wear and tear, the Owner may request reimbursement from HUD for such items so long as the Owner: (1) has collected a security deposit in an amount permitted by HUD; and (2) has completed the move-in and move-out unit inspections required by HUD. The amount of the reimbursement will be calculated in accordance with HUD regulations and administrative procedures.
- d. **PHA Fee.** Where appropriate, HUD will make payments to the Owner to be used solely to compensate PHAs for services provided in accordance with Exhibit C. The PHA fee, if any, will be the amount specified in Exhibit C.

**Section 8. HUD Not Obligated for Family's Rent.** HUD does not assume any obligation for the amount of rent payable by any family or for the satisfaction of any claim by the Owner against any family other than in accordance with Section 7.

**Section 9. Owner's Request for Housing Assistance Payments.** The Owner must prepare and submit requests for housing assistance payments in accordance with the administrative procedures established by HUD. All requests for assistance payments must be submitted on the forms prescribed by HUD and be properly executed by the Owner or the Owner's authorized agent. The Owner agrees not to request assistance payments under this Contract for families who are assisted under the Section 8 Existing Housing Program ("Finders Keepers," 24 CFR 882, Subparts A and B), the Rent Supplement Program, the Rental Assistance Program or any other similar program. The Owner understands that submission of such duplicate bids is a default under the Contract and HUD may pursue any remedies available including those outlined in Section 26 of this Contract.

**Section 10. Adjustment for Incorrect Payments.** If HUD at any time determines that the Owner has received improper or excessive housing assistance payments, HUD shall have the right to deduct the amount of such overpayments from any payments otherwise due the Owner under this Contract. The Owner agrees to promptly correct monthly requisitions for assistance payments and to promptly request revised requisitions as directed by HUD. If HUD determines that the Owner has not received the full amount of assistance to which the project is entitled, HUD shall promptly make a corresponding adjustment in the amount of housing assistance payments.

**Section 11. Marketing of Contract Units.** In conducting marketing activities, the Owner shall comply with the project's Affirmative Fair Housing Marketing Plan. The Owner shall make a good faith effort to market contract units to eligible lower income families to be used only as private dwellings and as the

Section 12. Determining Applicants' Eligibility for Assistance. The Owner agrees to promptly carry out the following actions in accordance with HUD regulations and administrative procedures:

- a. require each applicant to complete an application in a form developed by the Owner and containing the information needed to effectively screen applicants and to carry out HUD's requirements;
- b. verify all information on which the determination of the applicant's eligibility, Net Family Contribution, and housing assistance payment will be based;
- c. determine eligibility for assistance;
- d. notify applicants of decisions taken on their applications;
- e. execute a certification of tenant eligibility before billing HUD for assistance payments on behalf of the family; and
- f. process complaints received from applicants at any stage of the application procedure.

Section 13. Selection and Admission of Applicants. The Owner agrees to:

- a. establish only preferences and priorities approved by HUD;
- b. select families so that the Owner achieves the economic mix required by HUD's regulations and administrative procedures;
- c. offer any available contract units to eligible applicants who meet the Owner's tenant selection standards provided that sufficient contract authority is available pursuant to Section 6a of this Contract;
- d. offer any available contract unit to over-income applicants only when no eligible and otherwise qualified applicant is on the project's waiting list and only after complying with HUD's administrative procedures related to admission of over-income applicants;
- e. execute leases in the form prescribed or approved by HUD and do so before billing HUD for assistance payments;
- f. assign bedroom size in accordance with HUD's administrative requirements;
- g. inspect the unit with the family before the family moves in, document the condition of the unit on a written inspection report signed by both the Owner and the family, and certify that the unit is decent, safe and sanitary;
- h. collect and maintain security deposits only in accordance with HUD regulations and administrative procedures; and
- i. not collect any other amounts as a condition for admission to the project, unless HUD gives the Owner specific written authorization to do so.

Section 14. Maintenance. The Owner agrees to:

- a. maintain and operate the contract units and related facilities so as to provide decent, safe and sanitary housing as defined by HUD;
- b. regularly clean and maintain all common areas, equipment and grounds, and make repairs with reasonable promptness; and
- c. respond promptly to HUD's Physical Inspection Reports and to implement corrective actions within a reasonable time.

Section 15. General Management. The Owner agrees to:

- a. provide the utilities, services, and equipment specified in Exhibit B;
- b. not charge any family an amount in excess of the Net Family Contribution unless HUD gives the Owner specific written authorization to do so;
- c. pay monthly to the family the amount of the Net Family Contribution when the Net Family Contribution is negative;
- d. evaluate the accuracy of any utility allowance at least annually and submit to HUD documentation of the analysis and, if needed, recommendation for changes in the amount of any utility allowance;
- e. complete recertifications of each family's income and allowances in accordance with HUD regulations and administrative procedures;
- f. promptly follow-up with any family which does not provide the required recertification data within the established time schedules and initiate HUD-prescribed enforcement actions;
- g. adjust families' gross contributions in accordance with HUD regulations and administrative procedures;
- h. request a family to move to an appropriately-sized unit when the size or composition of the family has changed and HUD procedures require the Owner to request such a move;
- i. change, suspend or terminate a family's housing assistance payments only in accordance with HUD regulations and administrative procedures. The Owner agrees that suspension or termination of a family's housing assistance payments shall not effect the family's rights otherwise available under the lease, including the right to remain in the contract unit;

j. terminate tenancies of families only, in accordance with applicable State and local law, the lease and HUD regulations and administrative procedures, and

k. inspect a unit with the family when the family moves out and document the condition of the unit on a written inspection report signed by both the Owner and the family.

**Section 16 Discriminatory Practices Prohibited.** The Owner agrees not to discriminate based upon race, color, creed, religion, sex, age, national origin or handicap. The Owner also agrees not to discriminate against families with children unless the project is specifically designed for elderly families. The Owner agrees to comply with the Equal Opportunity Requirements attached as Exhibit A to this Contract.

**Section 17 Reduction in Number of Contract Units.**

a. If the Owner fails, for a continuous period of six months, to have at least 80 percent of the contract units leased or available for leasing to income-eligible families, HUD may, on 30 days notice to the Owner, reduce the number of contract units to not less than the number of units under lease or available for leasing by eligible families, plus 10 percent of such number.

b. At the end of the term of this Contract, HUD may, upon notice to the Owner, reduce the number of contract units to the greater of: (1) the number of units under lease or available for leasing by eligible families at that time; or (2) the average number of units so leased or available for leasing during the prior 12-month period; plus 10 percent of such number.

c. HUD will agree to an amendment of the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph a or b if contract and budget authority and units are available and HUD determines that the restoration is warranted as a result of changes in demand and in light of the Owner's record of compliance with his/her obligations under the Contract.

**Section 18 Rent Adjustments.** Contract rents and utility allowances shall be adjusted by HUD in accordance with HUD's regulations and administrative procedures. The new contract rents, utility allowances and gross rents will be incorporated into this Contract as a revision to Exhibit B. HUD will make housing assistance payments commensurately with the HUD-approved changes in rents and utility allowances, up to the maximum amount of assistance authorized by Section 6 of this Contract. The Owner agrees that rents charged for other comparable units in the project will not be less than the contract rents, except when authorized in writing by HUD.

**Section 19 Changes in Contract Amount.**

a. HUD will increase the maximum annual contract commitment as necessary to provide assistance payments for: (1) any additional contract units authorized by HUD; (2) HUD-approved rent increases; (3) decreases in family contribution for units currently authorized to receive assistance under this Contract; and (4) PHA fees.

b. HUD may reduce the maximum annual contract commitment commensurately with any reduction in the number of contract units made pursuant to this Contract.

**Section 20 Recordkeeping Requirements.** The Owner agrees to retain, for at least three years, all correspondence, materials, and documentation related to processing of: applications for admissions and notices of decisions made on those applications; certifications and recertifications of tenants eligibility; HUD-required move-in and move-out unit inspections; special claims and regular monthly vouchers; evictions, suspension and termination of assistance; and other actions which the Owner is required to perform in carrying out this Contract. The Owner shall maintain as confidential all information which, if disclosed, would constitute an unwarranted invasion of a family's privacy.

**Section 21 Reports and Access to Premises and Records.** The Owner shall supply HUD with any information and reports pertinent to the Contract as reasonably may be required from time to time by HUD. The Owner shall permit HUD or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner and his/her Management Agent that are pertinent to compliance with this Contract, including the verification of information pertinent to the housing assistance payments.

**Section 22 Flood Insurance.** If the project is in a special flood hazard area, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

**Section 23 Clean Air Act and Federal Water Pollution Control Act.** This Section does not apply if five times the dollar amount in Section 6a of this Contract, as of the first day of this term, is \$100,000 or less. In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees to:

a. not utilize any facility in the performance of this Contract or any nonexempt subcontract which is listed on the EPA List of Violating Facilities pursuant to section 15.20 of the regulations;

b. promptly notify HUD of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspections, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Air Act and section 308 of the Water Act, and all regulations and guidelines issued thereunder; and

Section 27. Impact of Other Servicing Actions on this Contract.

- a. Assignment of Contract or Change of Ownership HUD will approve a change of ownership during the term of this Contract only if the purchaser demonstrates, to HUD's satisfaction, an ability to administer this Contract and agrees to carry out all terms of this Contract.
- b. Assignment of Mortgage In the event the mortgage is assigned to HUD, HUD may terminate this Contract, temporarily reduce or suspend payment of amounts due under this Contract, or take any other action available under Section 21 of this Contract.
- c. Prepayment of Mortgage Prepayment of the mortgage shall not, by itself, affect any rights of the Owner under this Contract.

Section 28. Effect on Other Agreements. To the extent that this Contract conflicts with any agreement(s) between the Owner and HUD, the provisions of this Contract shall be controlling. The provision(s) of the other agreement(s) shall be considered to be amended by the terms of this Contract. Such amendments shall be valid as if such amendment had been made directly to such agreement(s). These amendments shall be effective only during the term of this Contract.

**WARNING:** 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.



**EXHIBIT B**

**SCHEDULE OF UNITS, RENTS, EQUIPMENT, UTILITIES AND SERVICES**

Project Name: Petersburg East 1

No. of Units:  
Section B: 30  
Total: 100

HAF Contract  
Year End: 9/30/88

Section B No.: VA36-MOOD-107

Unit Size (1)	No. of Section B Contract Units (2)	Contract Rent (\$) (3)	Utility Allowance (PBE) \$ (4)	Gross Rent (3 + 4)
<u>1</u> Bdm	<u>5</u>	\$ <u>237</u>	\$ <u>38</u>	\$ <u>275</u>
<u>2I</u> Bdm	<u>0</u>	\$ <u>270</u>	\$ <u>49</u>	\$ <u>319</u>
<u>2G</u> Bdm	<u>15</u>	\$ <u>221</u>	\$ <u>50</u>	\$ <u>321</u>
<u>3</u> Bdm	<u>10</u>	\$ <u>284</u>	\$ <u>59</u>	\$ <u>343</u>
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____

**EQUIPMENT, UTILITIES AND SERVICES INCLUDED IN RENT:**

EQUIPMENT	UTILITIES	SERVICES
<input checked="" type="checkbox"/> Range <input checked="" type="checkbox"/> Refrigerator <input checked="" type="checkbox"/> Air Conditioner <input checked="" type="checkbox"/> Kitchen Exhaust Fan <input type="checkbox"/> Disposal <input checked="" type="checkbox"/> Dishwasher (not in 1 bdrm.) <input checked="" type="checkbox"/> Carpet <input type="checkbox"/> Drapes <input type="checkbox"/> Other (Specify) _____ _____	<input type="checkbox"/> Heat <input type="checkbox"/> Cooking <input checked="" type="checkbox"/> Hot Water <input type="checkbox"/> Air Conditioning <input type="checkbox"/> Lights, etc. <input checked="" type="checkbox"/> Other (Specify) <u>Water/sewer</u> <u>Trash pick-up</u>	<input checked="" type="checkbox"/> Parking <input checked="" type="checkbox"/> Laundry Facilities <input checked="" type="checkbox"/> Other (Specify) <u>Playground</u> <u>Pool</u>

The Owner hereby acknowledges receipt of this Exhibit B and agrees that the above rents will apply to Section B and become effective on October 1, 1987

[Signature] (Owner's Signature)      [Signature] (Tenant's Signature)



04-24-09P12:16 RCVD

04-10-09A10:30 RCVD

**U.S. Department of Housing and Urban Development**

**Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT**

**MULTI-YEAR TERM**

Petersburg East I

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text.  
These endnotes are instructions for preparation of the Basic Renewal Contract.  
The instructions are not part of the Renewal Contract

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**U.S. Department of Housing and Urban Development  
Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT<sup>1</sup>**

**MULTI-YEAR TERM**

**1 CONTRACT INFORMATION<sup>2</sup>**

**PROJECT**

**Section 8 Project Number:** VA36M000157

**Section 8 Project Number of Expiring Contract:** SAME

**FHA Project Number (if applicable):** N/A

**Project Name:** Petersburg East I

**Project Description:<sup>3</sup>**

This property consists of 6 Walk-up Garden Apartments with 100 (16) 1 BR, (48) 2 BR, and (36) 3 BR Section 8 units. The property is located at 110 Croatan Drive, Petersburg, VA 23803 and is in the county of Petersburg City

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**TYPE OF RENEWAL**

- X Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

**PARTIES TO RENEWAL CONTRACT**

**Name of Contract Administrator<sup>4</sup>**

JEFFERSON COUNTY ASSISTED HOUSING CORPORATION

**Address of Contract Administrator**

500 OFFICE PARK DRIVE SUITE 300  
BIRMINGHAM, AL 35223

**Name of Owner<sup>5</sup>**

Whitehill Estates I, LP

**Address of Owner**

405 Atlantis Road, Suite B  
Cape Canaveral, FL 32920

**2 TERM AND FUNDING OF RENEWAL CONTRACT**

- a** The Renewal Contract begins on May 1, 2009 <sup>6</sup> and shall run for a period of (5) five <sup>7</sup> years.
- b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ 656,500.00, <sup>8</sup> an amount sufficient to provide housing assistance payments for approximately (60) sixty <sup>9</sup> months of the first annual increment of the Renewal Contract term.

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- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

### 3 DEFINITIONS

**ACC.** Annual contributions contract.

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

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**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

#### 4 RENEWAL CONTRACT

##### a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

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**b Statutory authority**

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

**c Expiring Contract**

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such



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provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

- b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
- (1) Identification of contract units by size and applicable contract rents;
  - (2) The amount of the monthly contract rents;
  - (3) Contract rent adjustments; and
  - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c** The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## **6 CONTRACT RENT**

### **a Initial contract rents**

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### **b Contract rent adjustments**

#### **(1) OCAF or Budget-Based Rent Adjustments**

- 
- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
- (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

**(2) Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*).**
- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

- 
- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
- (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.
- (c) **Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

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**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

---

**7 OWNER WARRANTIES**

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

**10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

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**11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

**12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

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**13 WRITTEN NOTICES**

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

**SIGNATURES**

**Contract administrator (HUD or PHA)**

Name of Contract Administrator

JEFFERSON COUNTY ASSISTED HOUSING CORPORATION

By: Robert M. S. Layton  
Signature of authorized representative

for ERIC Q. STRONG, CHIEF EXECUTIVE OFFICER  
Name and official title

Date 04/13/2009

**U.S. Department of Housing and Urban Development**

By: Charles C. Famuliner  
Signature of authorized representative

Charles C. Famuliner, Authorized Agent, Richmond Multifamily Program Center

Name and official title

Date 4/17/09

**Owner**

Name of Owner

Whitehill Estates I, LP

By: James Kincaid  
Signature of authorized representative

James Kincaid, Vice President  
Name and title

Date 4/09/2009



**EXHIBIT A**

04-10-09A10:30 RCVD

**IDENTIFICATION OF UNITS ("CONTRACT UNITS")  
BY SIZE AND APPLICABLE CONTRACT RENTS****Section 8 Contract Number: VA36M000157****FHA Project Number (if applicable): N/A****Effective Date of the Rent Increase (if applicable): 05/01/2009**

<b>Number of Contract Units</b>	<b>Number of Bedrooms</b>	<b>Contract Rent</b>	<b>Utility Allowance</b>	<b>Gross Rent</b>
16	1 BR	\$519	\$97	\$616
16	2 BR-TH	\$593	\$124	\$717
32	2 BR	\$588	\$107	\$695
36	3 BR	\$622	\$120	\$742

**NOTE:** This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007





**Part G - Information on Mortgagor Entity**

Name of Entity

Whitehill Estates I, LP

Type of Entity

- Individual     General Partnership     Joint Tenancy/Tenants in Common     Other (specify)  
 Corporation     Limited Partnership     Trust

List all Principals Comprising Mortgagor Entity: provide name and title of each principal. Use extra sheets if needed. If mortgagor is a:

- corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest.
- partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership.
- trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.

Name and Title

Neal Harding, CEO of the General Partner - Whitehill, Incorporated

Name and Title

James Kincaid, President of the General Partner - Whitehill, Incorporated

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

**Part H - Owner Certification**

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name and Title James Kincaid, VCA President	Authorized Official's Signature <i>James Kincaid</i>	Date (mm/dd/yyyy) 04/09/2009
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**Part I - HUD/Lender Approval**

Addendum Number	Branch Chief/Lender Official Signature	Date (mm/dd/yyyy)
HAP Contract Number VA36M000157	<i>Robert J. McLaughlin</i>	04/13/2009
Exhibit Number	Director, Housing Management Division Signature	Date (mm/dd/yyyy)
Loan Servicer Signature	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)

RECEIVED MAY 08 2014

RECEIVED APR 28 2014

Attachment 11-2

**U.S. Department of Housing and Urban Development  
Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS  
BASIC RENEWAL CONTRACT  
MULTI-YEAR TERM**

**Petersburg East I (VA36M000157 )**

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract

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Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

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U.S. Department of Housing and Urban Development  
Office of Housing

Project-based Section 8

## HOUSING ASSISTANCE PAYMENTS

### BASIC RENEWAL CONTRACT<sup>1</sup>

### MULTI-YEAR TERM

#### 1 CONTRACT INFORMATION<sup>2</sup>

##### PROJECT

Section 8 Project Number: **VA36M000157**

Section 8 Project Number of Expiring Contract: **Same**

FHA Project Number (if applicable): **N/A**

Project Name: **Petersburg East I**

Project Description:<sup>3</sup>

**This property consists of 6 Walk-up Garden Apartments with 100 (16) 1 BR, (48) 2 BR, and (36) 3 BR Section 8 units. The property is located at 110 Croaton Drive, Petersburg, VA 23803 and is in the county of Petersburg City.**

##### TYPE OF RENEWAL

- Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.



**PARTIES TO RENEWAL CONTRACT**

Name of Contract Administrator<sup>4</sup>

**Navigate Affordable Housing Partners**

Address of Contract Administrator

**500 Office Park Drive, Suite 300  
Birmingham, AL 35223**

Name of Owner<sup>5</sup>

**WHITEHALL ESTATES I, L.P.**

Address of Owner

**405 Atlantis Road, Suite B  
Cape Canaveral, FL 32920**

**2 TERM AND FUNDING OF RENEWAL CONTRACT**

a The Renewal Contract begins on **5/1/2014**<sup>6</sup> and shall run for a period of **20 (Twenty)**<sup>7</sup> years.

b Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ **\$697,762**<sup>8</sup>, an amount sufficient to provide housing assistance payments for approximately **12**<sup>9</sup> months of the first annual increment of the Renewal Contract term.

- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

### **3 DEFINITIONS**

**ACC.** Annual contributions contract.

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at

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the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

#### **4 RENEWAL CONTRACT**

##### **a Parties**

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

##### **b Statutory authority**

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

##### **c Expiring Contract**

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing

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assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

- a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).
- b All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
  - (1) Identification of contract units by size and applicable contract rents;
  - (2) The amount of the monthly contract rents;

- 
- (3) Contract rent adjustments; and
  - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## 6 CONTRACT RENT

### a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### b Contract rent adjustments

#### (1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
  - (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.

- 
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) **Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).

(b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*).**

- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).
- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
- (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

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**(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

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**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

**7 OWNER WARRANTIES**

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

**10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of



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section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

## **11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

## **12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

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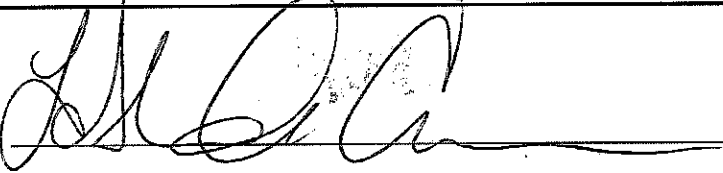
Attachment 11-2

**SIGNATURES**

Contract administrator (HUD or PHA)

Name of Contract Administrator

**Navigate Affordable Housing Partners**

By: 

Signature of authorized representative

**Eric Q. Strong, CEO**

Name and official title

Date 4/29/14

**U.S. Department of Housing and Urban Development**

By: 

Signature of authorized representative

**Uche A. Oluku - Director, Multifamily Housing, United States Dept. of Housing and Urban Development**

Name and official title  
Date 4/30/2014

**Owner**

Name of Owner

**WHITEHALL ESTATES I, L.P.**

By: 

Signature of authorized representative

**James Kincaid, President of the GP - White<sup>ALL</sup> Incorporated**

Name and title

Date 4/25/2014

## EXHIBIT A

## IDENTIFICATION OF UNITS ("CONTRACT UNITS")

## BY SIZE AND APPLICABLE CONTRACT RENTS

Section 8 Contract Number: **VA36M000157**FHA Project Number (if applicable): **N/A**Effective Date of the Rent Increase (if applicable): **5/1/2014**

<u>Number of Contract Units</u>	<u>Number of Bedrooms</u>	<u>Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
16	<b>1 Bedroom, Family</b>	\$ 568	\$ 92	\$ 660
32	<b>2 Bedroom, Family</b>	\$ 643	\$ 91	\$ 734
16	<b>2 Bedroom, TH</b>	\$ 649	\$ 133	\$ 782
36	<b>3 Bedroom, Family</b>	\$ 680	\$ 111	\$ 791

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

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**EXHIBIT B**  
**DISTRIBUTIONS LIMITATION**

**FOR PROJECT NOT SUBJECT TO DISTRIBUTIONS LIMITATION:**

If the project is not subject to any limitation on distributions of project funds, either pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, neither HUD nor the PHA may impose any additional limitation on distributions of project funds during the term of the Renewal Contract.

**FOR PROJECT SUBJECT TO DISTRIBUTIONS LIMITATION:**

If the project is subject to any limitation on distributions of project funds pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, such limitation on distributions shall continue to be applicable during the term of the Renewal Contract, provided that the owner may take an increased distribution in accordance with the Section 8 Renewal Policy Guidance for Renewal of Project-Based Section 8 Contracts, (the "Guidebook").

However, owners of Section 8 properties must maintain the property in good condition, as demonstrated by a REAC score of 60 or higher, in order to take increased distributions.

The owner shall comply with the distribution limitations. The maximum distribution to the owner shall be equal to the total of:

- 1 The limited distribution permitted pursuant to the FHA Regulatory agreement or the Expiring Contract, **plus**
- 2 Any increased distribution as approved by HUD in accordance with the Guidebook.

ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT  
SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT  
(UNINSURED PROJECT)

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT OF SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT (herein called the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the United States of America, acting through the **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** (herein called "HUD"), **WHITEHILL ESTATES-II, L.P.**, a a Virginia limited partnership (herein called the "Seller"), and **PETERSBURG EAST HOUSING PARTNERS, LP**, a a Virginia limited partnership (herein called the "Buyer").

**WHEREAS**, HUD and Petersburg East Section I, pursuant to Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f, entered into a Section 8 Housing Assistance Payments Contract (herein called the "HAP Contract") identified as HAP Contract Number VA36L000113 for units in Petersburg East II (herein called the "Property"), a copy of which is attached hereto as "Exhibit A." Said HAP Contract was assigned to, and assumed by, the Seller by an assignment of HAP Contract, executed by the prior owner and the Seller and approved by HUD, dated on or about June 16, 2004;

**WHEREAS**, the Seller and an affiliate of the Buyer have entered into a Purchase and Sale Agreement, as assigned to the Buyer, dated as of September 10, 2020, wherein the Seller agrees to sell the Property and the Buyer agrees to purchase the Property, including, without limitation, the improvements situated thereon, and has agreed to accept the assignment of and assume all obligations under the HAP Contract;

**WHEREAS**, the Buyer has submitted to the Secretary of HUD (herein called the "Secretary") an application and documents in support thereof (herein collectively referred to as the "Application") requesting the Secretary's approval of the proposed assignment of the HAP Contract to the Buyer as set forth in the aforesaid Purchase and Sale Agreement; and

**WHEREAS**, the Seller and the Buyer mutually desire to assign the HAP Contract; and it is necessary to and HUD and the Buyer mutually desire to amend the HAP Contract to allow for physical inspections in accordance with 24 CFR Part 5, Subpart G and require financial reporting in accordance with 24 CFR Part 5, Subpart H.

**NOW, THEREFORE**, in consideration of the foregoing, the sum of Ten Dollars (\$10.00) in hand paid and other good consideration, the receipt of which is hereby acknowledged, and in order to comply with the requirements of the Secretary, the United States Housing Act of 1937, and the regulations adopted pursuant thereto, the parties hereto agree as follows:

1. The Seller hereby irrevocably assigns the HAP Contract to the Buyer together with all rights and obligations in and under said HAP Contract;

2. Effective as of the date of this Agreement the Buyer agrees to assume and to be bound by said HAP Contract as modified herein, and is responsible for filing the Annual Financial Statement (AFS) from the date of this Agreement through the end of the Buyer's fiscal year.
3. Effective as of the date of this Agreement, the Seller is released from any future obligations under the HAP Contract, excepting that the Seller shall remain responsible for filing the AFS through the day before this Agreement if said HAP Contract includes an AFS filing requirement. Nothing in this Agreement shall waive, compromise, impair, or prejudice any right HUD may have against the Seller for any violation of the HAP Contract that may have occurred prior to the date of this Agreement.
4. Part II of the HAP Contract shall be amended as follows to include the following provisions:

**Physical Conditions Standards and Inspection Requirements.** The Owner shall comply with the Physical Condition Standards and Inspection Requirements of 24 CFR Part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Properties of 24 CFR Part 200, Subpart P, including any changes in the regulation and related Directives. This obligation shall apply both during the current term of the HAP Contract and during each successive renewal term.

**Financial Reporting Standards.** The Owner shall comply with the Uniform Financial Reporting Standards of 24 CFR Part 5, Subpart H, including any changes in the regulation and related Directives. This obligation shall apply during the current term of the HAP Contract and for each successive renewal term.

5. This Agreement shall be construed under the laws of the Commonwealth of Virginia and to the extent inconsistent with the laws of the Commonwealth of Virginia, the laws of the United States of America. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
6. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.
7. The Secretary, by the signature of his authorized representative below, consents to assignment made hereby. Said consent shall be void *ab initio* if the Secretary determines that Buyer, or any principal or interested party of the Buyer, is debarred, suspended or subject to a limited denial of participation under 24 CFR Part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

**NOTHING** in this Agreement shall in any way impair the HAP Contract or alter, waive, annul, vary or affect any provision, condition, covenant therein, except as herein specifically provided, or affect or impair any rights, powers, or remedies under the HAP Contract, it being the intent of the parties hereto that the terms and conditions of the HAP Contract shall continue in full force and effect except as amended hereby.

**IN WITNESS WHEREOF**, the Seller, the Buyer, and HUD have caused this agreement to be executed.

[SIGNATURE PAGES ATTACHED]

**SELLER:**

**WHITEHILL ESTATES-II, L.P.,**

a Virginia limited partnership

By: Whitehill, Inc., a Virginia corporation,  
its general partner

By: James Kincaid  
Name: James Kincaid  
Title: PRESIDENT

[SIGNATURES CONTINUE ON NEXT PAGE]




**BUYER:**

**PETERSBURG EAST HOUSING PARTNERS, LP,**  
a Virginia limited partnership

By: Petersburg East Housing Management, LLC,  
a Virginia limited liability company,  
Its: General Partner

By: Vitus Development IV, LLC,  
a Delaware limited liability company,  
Its: Sole Member and Manager

By:   
\_\_\_\_\_  
Stephen R. Whyte  
Title: President

[SIGNATURES CONTINUE ON NEXT PAGE]

**HUD:**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and Title (Print)

Project Name: Petersburg East II  
Project Location: Petersburg, Virginia  
HAP Contract No. VA36L000113

**EXHIBIT A**

HAP CONTRACT  
<Attached>

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM  
ADDITIONAL ASSISTANCE PROGRAM FOR PROJECTS WITH HUD-INSURED  
AND HUD-HELD MORTGAGES,  
24 C.F.R. PART 888, SUBPART A

HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

Term No. 1

This Contract is between the United States of America, acting through the Department of Housing and Urban Development (called "HUD"), and Petersburg East, Section II, A Limited Partnership (called "Owner"). This Contract is executed pursuant to the United States Housing Act of 1937 (called the "Act"), 42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq. The housing project covered by this Contract is identified as follows:

Project Name: Petersburg East, Section II City: Petersburg  
Street Address: 110 Croatan Drive  
Section 8 No. VA36-M000-123 <sup>113</sup> <sup>2/3/81</sup> Apud Richmond County: \_\_\_\_\_  
Project No.: 051-44234-LD State: Virginia

Section 1. Definitions

- Family -- one or more persons eligible for and receiving Section 8 housing assistance payments in accordance with HUD regulations and administrative procedures.
- Contract Rent -- the rent HUD authorizes the Owner to collect for the contract unit.
- Utility Allowance -- an amount determined or approved by HUD as an allowance for the cost of utilities (except telephone).
- Gross Rent -- the sum of the contract rent and any utility allowance. If there is no utility allowance, gross rent equals contract rent.
- Gross Family Contribution -- the amount HUD regulations require the family to pay monthly towards the gross rent.
- Net Family Contribution -- the Gross Family Contribution less any utility allowance. If this amount is positive, it represents the amount HUD regulations require the family to pay monthly to the Owner. If this amount is negative, the family makes no payment to the Owner. Instead, the Owner pays this amount monthly to the family.

Section 2. Content of Contract. This Contract includes the exhibits listed below and the Affirmative Fair Housing Marketing Plan approved by HUD on \_\_\_\_\_ which is incorporated by reference.

- o Exhibit A: Equal Opportunity Requirements
- o Exhibit B: Schedule of Units, Rents, Equipment, Utilities and Services
- o Additional Exhibits:

Section 3. Scope of Contract. This Contract and its exhibits comprise the entire agreement between the parties to this Contract with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Contract, in any applicable regulations, in HUD's administrative procedures, or in agreements entered into in writing (e.g., the project Regulatory Agreement).

Section 4. Housing Owner's Certification of Authority. The Owner certifies that the Owner has the legal authority to enter into this Contract and to lease the dwelling units covered by this Contract.

Section 5. Term of Contract. This Contract shall run for a period of five years, beginning October 1, 1987, and continuing through September 30, 1992. This Contract may be renewed for 0 additional five-year periods at the option of the Owner and HUD.

Section 6. Maximum Amount of Housing Assistance Payments.

- Maximum Annual Contract Commitment. Notwithstanding any other provision of this Contract (other than paragraph b) or any other contract between HUD and the Owner, HUD shall not be obligated to make assistance payments and pay PHA fees, if any, in excess of \$ 40,000.00 under this Contract during any contract year. In addition, HUD shall not be obligated to pay assistance for more than the total number of contract units shown in Exhibit B.
- HAP Reserve (Formerly Project Account). In order to ensure that housing assistance payments will be increased promptly upon to cover increases in contract rent or decreases in family incomes, HUD shall establish and maintain a HAP Reserve consisting of amounts by which the maximum annual contract commitment exceeds amounts paid under the Contract for any contract year. This Reserve shall be maintained in the name of the project. The amount of housing assistance paid for any contract year shall not exceed the maximum annual contract commitment specified in paragraph 6a to the extent unused contract authority is in the HAP Reserve.

- (1) The HAP Reserve may be used only for payment of housing assistance payments or other costs specifically authorized by HUD.
- (2) If HUD at any time determines that the HAP Reserve has accumulated unused contract authority in excess of the amount the project will need through the current contract year, HUD may reduce the HAP Reserve by the amount that HUD determines to be excessive.
- (3) Any amount remaining in the HAP Reserve at the end of the term of this Contract shall be applied as directed by HUD in accordance with applicable law.

**Section 7. Housing Assistance Payments and PHA Fees.** HUD shall make payments for the purposes identified in this section. Eligibility for, and the amount of, any housing assistance payments will be determined in accordance with HUD's regulations and administrative procedures.

- a. **Monthly Rental Assistance.** For each contract unit occupied by an eligible family in accordance with this Contract, HUD will pay the Owner the difference between the HUD-approved gross rent and the Gross Family Contribution required by HUD regulations and administrative procedures. From this amount, the Owner will pay families any amounts due them pursuant to HUD regulations and administrative procedures and Section 15c of this Contract.
- b. **Compensation for Vacancy Loss.** If an occupied contract unit becomes vacant, HUD will pay the Owner 80 percent of the contract rent for up to the lesser of 60 calendar days following the date the unit became vacant or the actual number of days the unit remained vacant. Such payments will be made only in accordance with the following conditions and limitations.
  - (1) The Owner shall be entitled to vacancy payments under this paragraph b only if the Owner:
    - (a) immediately upon learning of the vacancy or prospective vacancy: (1) notified HUD of the vacancy and the reasons for the vacancy; and (2) took and continued to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on the waiting list and advising them of the availability of the unit;
    - (b) has not rejected any eligible applicant except for good cause acceptable to HUD;
    - (c) when the vacancy was created by the Owner's action, administered the termination of tenancy, eviction and all related notices in accordance with State and local law, the lease and HUD regulations and administrative procedures.
  - (2) HUD will pay vacancy payments only for those days on which the unit was in decent, safe and sanitary condition and available for occupancy.
  - (3) If the Owner collects other payments toward the rent due for the period HUD pays vacancy payments, the Owner shall pay to HUD, or pay as HUD directs, any amount by which the sum of the HUD vacancy payments and these other payments exceeds the contract rent. "Other payments" will include rent collected from or on behalf of the former tenant, security deposits applied toward the rent, and payments from any other source.
- c. **Compensation for Damages, Unpaid Rent and Other Amounts Due Under the Lease.** If a family vacates a contract unit and owes rent, other amounts due under the lease, or has left damages in excess of normal wear and tear, the Owner may request reimbursement from HUD for such items so long as the Owner: (1) has collected a security deposit in an amount permitted by HUD, and (2) has completed the move-in and move-out unit inspections required by HUD. The amount of the reimbursement will be calculated in accordance with HUD regulations and administrative procedures.
- d. **PHA Fee.** Where appropriate, HUD will make payments to the Owner to be used solely to compensate PHAs for services provided in accordance with Exhibit C. The PHA fee, if any, will be the amount specified in Exhibit C.

**Section 8. HUD Not Obligated for Family's Rent.** HUD does not assume any obligation for the amount of rent payable by any family or for the satisfaction of any claim by the Owner against any family other than in accordance with Section 7.

**Section 9. Owner's Request for Housing Assistance Payments.** The Owner must prepare and submit requests for housing assistance payments in accordance with the administrative procedures established by HUD. All requests for assistance payments must be submitted on the forms prescribed by HUD and be properly executed by the Owner or the Owner's authorized agent. The Owner agrees not to request assistance payments under this Contract for families who are assisted under the Section 8 Existing Housing Program ("Finders Keepers," 24 CFR 882, Subparts A and B), the Rent Supplement Program, the Rental Assistance Program or any other similar program. The Owner understands that submission of such duplicate bills is a default under the Contract and HUD may pursue any remedies available including those outlined in Section 26 of this Contract.

**Section 10. Adjustment for Incorrect Payments.** If HUD at any time determines that the Owner has received improper or excessive housing assistance payments, HUD shall have the right to deduct the amount of such overpayments from any payments otherwise due the Owner under this Contract. The Owner agrees to promptly correct monthly requisitions for assistance payments and to promptly submit revised requisitions as directed by HUD. If HUD determines that the Owner has not received the full amount of assistance to which the project is entitled, HUD shall promptly make a corresponding adjustment in the amount of housing assistance payments.

**Section 11. Marketing of Contract Units.** In conducting marketing activities, the Owner shall comply with the project's Affirmative Fair Housing Marketing Plan and the regulations relating to fair housing advertising. The Owner shall make a good-faith effort to ensure that all contract units are promptly leased to eligible lower income families to be used only as private dwellings and as the family's sole place of residence.

Section 12. Determining Applicants' Eligibility for Assistance. The Owner agrees to promptly carry out the following actions in accordance with HUD regulations and administrative procedures:

- a. require each applicant to complete an application in a form developed by the Owner and containing the information needed to effectively screen applicants and to carry out HUD's requirements;
- b. verify all information on which the determination of the applicant's eligibility, gross family contribution, and housing assistance payment will be based;
- c. determine eligibility for assistance;
- d. notify applicants of decisions taken on their applications;
- e. execute a certification of tenant eligibility before billing HUD for assistance payments on behalf of the family; and
- f. process complaints received from applicants at any stage of the application procedure.

Section 13. Selection and Admission of Applicants. The Owner agrees to:

- a. establish only preferences and priorities approved by HUD;
- b. select families so that the Owner achieves the economic mix required by HUD's regulations and administrative procedures;  
offer any available contract units to eligible applicants who meet the Owner's tenant selection standards provided that sufficient contract authority is available pursuant to Section 6a of this Contract;
- d. offer any available contract unit to over-income applicants only when no eligible and otherwise qualified applicant is on the project's waiting list and only after complying with HUD's administrative procedures related to admission of over-income applicants;
- e. execute leases in the form prescribed or approved by HUD and do so before billing HUD for assistance payments;
- f. assign bedroom size in accordance with HUD's administrative requirements;
- g. inspect the unit with the family before the family moves in, document the condition of the unit on a written inspection report signed by both the Owner and the family, and certify that the unit is decent, safe and sanitary;
- h. collect and maintain security deposits only in accordance with HUD regulations and administrative procedures; and
- i. not collect any other amounts as a condition for admission to the project, unless HUD gives the Owner specific written authorization to do so.

Section 14. Maintenance. The Owner agrees to:

- a. maintain and operate the contract units and related facilities so as to provide decent, safe and sanitary housing as defined by HUD;
- b. regularly clean and maintain all common areas, equipment and grounds, and make repairs with reasonable promptness; and respond promptly to HUD's Physical Inspection Reports and to implement corrective actions within a reasonable time.

Section 15. General Management. The Owner agrees to:

- a. provide the utilities, services, and equipment specified in Exhibit B;
- b. not charge any family an amount in excess of the Net Family Contribution unless HUD gives the Owner specific written authorization to do so;
- c. pay monthly to the family the amount of the Net Family Contribution when the Net Family Contribution is negative;
- d. evaluate the accuracy of any utility allowance at least annually and submit to HUD documentation of the analysis and, if needed, recommendation for changes in the amount of any utility allowance;
- e. complete recertifications of each family's income and allowances in accordance with HUD regulations and administrative procedures;
- f. promptly follow-up with any family which does not provide the required recertification data within the established time schedules and initiate HUD-prescribed enforcement actions;
- g. adjust families' gross contributions in accordance with HUD regulations and administrative procedures;
- h. request a family to move to an appropriately-sized unit when the size or composition of the family has changed and HUD procedures require the Owner to request such unit transfers;

change, suspend or terminate a family's housing assistance payments only in accordance with HUD regulations and administrative procedures. The Owner agrees that suspension or termination of a family's housing assistance payments shall not affect the family's rights otherwise available under the lease, including the right to remain in the contract unit;

j. terminate tenancies of families only in accordance with applicable State and local, the lease and HUD regulations and administrative procedures; and

k. inspect a unit with the family when the family moves out and document the condition of the unit on a written inspection report signed by both the Owner and the family.

**Section 16. Discriminatory Practices Prohibited.** The Owner agrees not to discriminate based upon race, color, creed, religion, sex, age, national origin or handicap. The Owner also agrees not to discriminate against families with children unless the project is specifically designed for elderly families. The Owner agrees to comply with the Equal Opportunity Requirements attached as Exhibit A to this Contract.

**Section 17. Reduction in Number of Contract Units.**

- a. If the Owner fails, for a continuous period of six months, to have at least 80 percent of the contract units leased or available for leasing to income-eligible families, HUD may, on 30 days notice to the Owner, reduce the number of contract units to not less than the number of units under lease or available for leasing by eligible families, plus 10 percent of such number.
- b. At the end of the term of this Contract, HUD may, upon notice to the Owner, reduce the number of contract units to the greater of: (1) the number of units under lease or available for leasing by eligible families at that time; or (2) the average number of units so leased or available for leasing during the prior 12-month period; plus 10 percent of such number.
- c. HUD will agree to an amendment of the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph a or b if contract and budget authority and units are available and HUD determines that the restoration is justified as a result of changes in demand and in light of the Owner's record of compliance with his/her obligations under the Contract.

**Section 18. Rent Adjustments.** Contract rents and utility allowances shall be adjusted by HUD in accordance with HUD regulations and administrative procedures. The new contract rents, utility allowances and gross rents will be incorporated into this Contract as a revision to Exhibit B. HUD will make housing assistance payments commensurately with the HUD-approved changes in rents and utility allowances, up to the maximum amount of assistance authorized by Section 6 of this Contract. The Owner agrees that rents charged for other comparable units in the project will not be less than the contract rents, except when authorized in writing by HUD.

**Section 19. Changes in Contract Amount.**

- a. HUD will increase the maximum annual contract commitment as necessary to provide assistance payments for: (1) any additional contract units authorized by HUD; (2) HUD-approved rent increases; (3) decreases in family contribution for units currently authorized to receive assistance under this Contract; and (4) PIA fees.
- b. HUD may reduce the maximum annual contract commitment commensurately with any reduction in the number of contract units made pursuant to this Contract.

**Section 20. Recordkeeping Requirements.** The Owner agrees to retain, for at least three years, all correspondence, materials, and documentation related to processing of: applications for admissions and notices of decisions made on those applications; certifications and recertifications of tenant eligibility; HUD-required move-in and move-out unit inspections; special claims and regular monthly vouchers; evictions; suspension and termination of assistance; and other actions which the Owner is required to perform in carrying out this Contract. The Owner shall maintain as confidential all information which, if disclosed, would constitute an unwarranted invasion of a family's privacy.

**Section 21. Reports and Access to Premises and Records.** The Owner shall supply HUD with any information and reports pertinent to the Contract as reasonably may be required from time to time by HUD. The Owner shall permit HUD or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner and his/her Management Agent that are pertinent to compliance with this Contract, including the verification of information pertinent to the housing assistance payments.

**Section 22. Flood Insurance.** If the project is in a special flood hazard area, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

**Section 23. Clean Air Act and Federal Water Pollution Control Act.** This Section does not apply if five times the dollar amount in Section 6a of this Contract, as of the first day of this term, is \$100,000 or less. In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees to:

- a. not utilize any facility in the performance of this Contract or any nonexempt subcontract which is listed on the EPA List of Violating Facilities pursuant to section 15.20 of the regulations;
- b. promptly notify HUD of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;
- c. comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Air Act and section 308 of the Water Act, and all regulations and guidelines issued thereunder; and

- d. Include or cause to be included the provisions of this Section in every nonexempt subcontract and take such action as HUD may direct as a means of enforcing such provisions.

Section 24. Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body or Other Public Officials. No member, officer, or employee of the PHA, if any, which is a party to the Contract, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising from it. However, a member or officer of the PHA may be a tenant in the project.

Section 25. Interest of Member of or Delegate to Congress. No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise from it.

Section 26. Owner Default Under Contract.

- a. Events of Default. HUD may consider the Owner to be in default under this Contract when the Owner has:

- (1) violated or failed to comply with any provision or obligation of this Contract, including correction of any deficiency identified by HUD in its reviews of the Owner's administration of this Contract;
- (2) asserted or demonstrated an intention not to perform some or all of his/her obligations under this Contract or any lease;
- (3) violated or failed to comply with any applicable HUD regulation or with any term of the HUD-held or insured mortgage or regulatory agreement or any lease; or
- (4) furnished any false statements or misrepresentations to HUD in connection with HUD mortgage insurance, loan processing, or administration of this Contract.

- b. Corrective Actions. Upon determining that a default has occurred, HUD will notify the Owner, by certified mail, of the nature of the default, the actions the Owner must take to cure the default, and the time within which the Owner must complete the corrective actions. If the Owner does not implement the requested actions, or other corrective action acceptable to HUD, within the prescribed time or does not do so to the satisfaction of HUD, HUD may terminate this Contract in whole or in part or may initiate any of the following actions.

(1) Actions by Court Order.

- (a) Take possession of the project, bring any action necessary to enforce any rights of the Owner related to operation of the project, and operate the project in accordance with the terms of this Contract until such time as HUD determines that the Owner is again in a position to operate the project in accordance with the terms of this Contract and in compliance with the requirements of any note, mortgage, or regulatory agreement.
- (b) Collect all rents and other receipts of the project and use such receipts to pay the Owner's obligations under this Contract and under the note and mortgage and the necessary expenses of maintaining and operating the project.
- (c) Apply to any court, State or Federal, for specific performance of this Contract, for an injunction against any violations of this Contract, for the appointment of a receiver to take over and operate the project in accordance with the terms of the Contract, or for such other relief as may be appropriate. These remedies are appropriate since the injury to HUD arising from a default under any of the terms of this Contract could be irreparable and the amount of damage would be difficult to ascertain.
- (d) Initiate action to recover any overpayments.

(2) HUD Administrative Actions.

- (a) Pay housing assistance payments directly to the mortgagee in the event of default under the mortgage.
- (b) Reduce or suspend housing assistance payments until the default under this Contract has been cured to the satisfaction of HUD.
- (c) Withhold housing assistance payments until the default under this Contract has been cured to the satisfaction of HUD.
- (d) Reduce the number of contract units when the Owner has failed to make a good faith effort to lease all contract units to eligible families.
- (e) Suspend, debar or otherwise restrict participation in any HUD program.
- (f) Initiate action to recover any overpayments.

- c. Remedy for Remedies and Non-Waiver of Remedies. The exercise of any remedy under this Contract shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be considered a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.



Section 27. Impact of Other Servicing Actions on this Contract.

- a. Assignment of Contract by Change of Ownership. HUD will approve a change of ownership during the term of this Contract only if the purchaser demonstrates, to HUD's satisfaction, an ability to administer this Contract and agrees to carry out all terms of this Contract.
- b. Assignment of Mortgage. In the event the mortgage is assigned to HUD, HUD may terminate this Contract, temporarily reduce or suspend payment of amounts due under this Contract, or take any other action available under Section 26 of this Contract.
- c. Prepayment of Mortgage. Prepayment of the mortgage shall not, by itself, affect any rights of the Owner or HUD under this Contract.

Section 28. Effect on Other Agreements. To the extent that this Contract conflicts with any agreement(s) between the Owner and HUD, the provisions of this Contract shall be controlling. The provision(s) of the other agreement(s) shall be considered to be amended by the terms of this Contract. Such amendments shall be valid as if such amendment had been made directly to such agreement(s). These amendments shall be effective only during the term of this Contract.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

**EXHIBIT B**

**SCHEDULE OF UNITS, RENTS, EQUIPMENT, UTILITIES AND SERVICES**

Project Name: Petersburg East, Section II

No. of Units: \_\_\_\_\_

HAP Contract  
Year Ends 1992

Section B No.: VA36-M000-133

Section B: 15

Total: 68

Unit Size (1)	No. of Section B Contract Units (2)	Contract Rent (\$) (3)	Utility Allowance (PBE) \$ (4)	Gross Rent (3 + 4)
<u>1</u> Bdm	<u>2</u>	\$ <u>237</u>	\$ <u>38</u>	\$ <u>275</u>
<u>2T</u> Bdm	<u>0</u>	\$ <u>270</u>	\$ <u>49</u>	\$ <u>319</u>
<u>2G</u> Bdm	<u>9</u>	\$ <u>271</u>	\$ <u>50</u>	\$ <u>321</u>
<u>3</u> Bdm	<u>4</u>	\$ <u>284</u>	\$ <u>59</u>	\$ <u>343</u>
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____
_____ Bdm	_____	\$ _____	\$ _____	\$ _____

**EQUIPMENT, UTILITIES AND SERVICES INCLUDED IN RENT:**

EQUIPMENT	UTILITIES	SERVICES
<input checked="" type="checkbox"/> Range <input checked="" type="checkbox"/> Refrigerator <input checked="" type="checkbox"/> Air Conditioner <input checked="" type="checkbox"/> Kitchen Exhaust Fan <input type="checkbox"/> Disposal <input checked="" type="checkbox"/> Dishwasher (2 & 3 only) <input checked="" type="checkbox"/> Carpet <input type="checkbox"/> Drapes <input type="checkbox"/> Other (Specify) _____ _____	<input type="checkbox"/> Heat <input type="checkbox"/> Cooking <input checked="" type="checkbox"/> Hot Water (except 2T) <input type="checkbox"/> Air Conditioning <input type="checkbox"/> Lights, etc. <input type="checkbox"/> Other (Specify) <u>water / sewer</u> _____ _____	<input checked="" type="checkbox"/> Parking <input checked="" type="checkbox"/> Laundry Facilities <input checked="" type="checkbox"/> Other (Specify) <u>Playground</u> <u>Swimming Pool</u>

The Owner hereby acknowledges receipt of this Exhibit B and agrees that the above rents will supersede all previous Exhibits B and become effective on October 1, 1987.



**Department of Housing and Urban Development**

**Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT**

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development  
Office of Housing

Project Based Section 8

**HOUSING ASSISTANCE PAYMENTS  
BASIC RENEWAL CONTRACT <sup>1</sup>**

**1 CONTRACT INFORMATION <sup>2</sup>**

**PROJECT**

Section 8 Project Number VA36L000113

Section 8 Project Number of Expiring Contract

(These contract numbers or stages are terminated as of the effective date of this contract.)

N/A

FHA Project Number (if applicable) 05144234

Project Name PETERSBURG EAST II

Project Description <sup>3</sup> 2385 NAVAJO CT  
PETERSBURG, VA 23803-3709

**TYPE OF RENEWAL**

- Check this box for a project renewed under Section 524(a) of MAHRA (not including Mark- Up - To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA .

**PARTIES TO RENEWAL CONTRACT**

**Name of Contract Administrator** <sup>4</sup>

United States of America - Department of Housing and Urban Development (HUD)

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**Address of Contract Administrator**

Richmond Multifamily Program Center

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600 East Broad Street

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Richmond, VA 23219

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**Name of Owner** <sup>5</sup>

Whitehill Estates II, LP

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**Address of Owner**

5505 N. Atlantic Avenue, #115

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Cocoa Beach, FL 32931

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**2 TERM OF RENEWAL CONTRACT**

**a** The term of the Renewal Contract begins on

05/01/2004

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6

**b** Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of 1.0

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years, beginning on the first day of the term.<sup>7</sup> Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.



### 3 DEFINITIONS

**ACC.** Annual Contributions Contract

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No. 105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531(a) of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999, 113 Stat. 1109ff).

**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

#### 4 RENEWAL CONTRACT

##### a Parties

- (1) The Renewal Contract is a housing assistance payments contract (“HAP Contract”) between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency (“PHA”) for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract (“ACC”) between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD’s role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

##### b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of the MAHRA.

##### c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract (“expiring contract”) to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT - PROVISIONS RENEWED**

- a** Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).
- b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
  - (1) Identification of contract units by size and applicable contract rents;
  - (2) The amount of the monthly contract rents;
  - (3) Contract rent adjustments; and

- (4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## 6 CONTRACT RENT

### a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### b Contract rent adjustments

#### (1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
  - (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.

- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) **Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, if applicable).**
  - (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).
  - (ii) At the expiration of each 5-year period of the Renewal Contract term (“Fifth Year Anniversary”), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
  - (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a

rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

**(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall

specify when the adjustment of contract rent is effective.

- (c) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

**7 OWNER WARRANTIES**

- a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

## **10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

## **11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract (“ACC”) between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA’s obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

## **12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator’s implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.



- c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract (“ACC”) between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

**13 WRITTEN NOTICES**

- a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b A party shall give notice at the other party’s address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party’s designated address.

**SIGNATURES**

**Contract Administrator (HUD or PHA)**

Name of Contract Administrator (Print)

United States of America - Department of Housing and Urban Development (HUD)

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By Charles Famuliner  
Signature of authorized representative

Charles C. Famuliner, Authorized Agent

Name and official title (Print)

Date 8/25/09

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**Owner**

Name of Owner (Print)

Whitehill Estates - II, LP

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By James Kincaid  
Signature of authorized representative

James Kincaid, Vice President of the GP  
Name and official title (Print)

Date 8/20/09

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EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS")  
BY SIZE AND APPLICABLE RENTS

Section 8 Number: VA36L000113

Rent Effective Date: 5/1/2004

Number of Contract Units	Number of Bedrooms	Contract Rent
12	1	\$454.00
12	2	\$521.00
16	3	\$546.00
28	2	\$516.00

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

03-28-06A09:33 RCVD

**U.S. Department of Housing and Urban Development**  
**Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**  
**BASIC RENEWAL CONTRACT**

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text.  
These endnotes are instructions for preparation of the Basic Renewal Contract.  
The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development  
Office of Housing

Project-based Section 8

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT<sup>1</sup>**

1 CONTRACT INFORMATION<sup>2</sup>

PROJECT

Section 8 Project Number	<u>VA36L000113</u>
Section 8 Project Number of Expiring Contract	<u>Same</u>
FHA Project Number (if applicable)	<u>051-44234</u>
Project Name	<u>Petersburg East II</u>
Project Description <sup>3</sup>	<u>Project is located at 2385 Navajo Court , Petersburg, VA 23803-3709. Property is in Petersburg City, Virginia.</u>

TYPE OF RENEWAL

- Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).<sup>1</sup>
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

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<sup>1</sup> This form of Renewal Contract shall not be used for a Mark-Up-to-Market renewal.

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**PARTIES TO RENEWAL CONTRACT**

**Name of Contract Administrator<sup>4</sup>**

Jefferson County Assisted Housing Corporation

**Address of Contract Administrator**

500 Office Park Drive, Suite 300

Birmingham, AL 35223

**Name of Owner<sup>5</sup>**

Whitehill Estates II, L. P.

**Address of Owner**

5505 N. Atlantic Avenue

Suite #115

Cocoa Beach, FL 32931

**2 TERM OF RENEWAL CONTRACT**

- a The term of the Renewal Contract begins on May 01, 2006.<sup>6</sup>
- b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of 1 year, beginning on the first day of the term.<sup>7</sup> Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.



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### 3 DEFINITIONS.

**ACC.** Annual contributions contract

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No. 105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531(a) of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999, 113 Stat. 1109ff).

**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at

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comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

#### 4 RENEWAL CONTRACT

##### a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

##### b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of the MAHRA.

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**c Expiring Contract**

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

**a** Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

**b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

- 
- (2) The amount of the monthly contract rents;
  - (3) Contract rent adjustments; and
  - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## 6 CONTRACT RENT

### a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### b Contract rent adjustments

#### (1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
  - (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the

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Contract Administrator in accordance with HUD requirements.

- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

**(2) Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).

- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*).**

- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).
- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
- (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the

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Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

**(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

**(a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.

**(b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in

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accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.

- (c) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

**7 OWNER WARRANTIES**

- a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other

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requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

## **10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

## **11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

## **12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any



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lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract (“ACC”) between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

### **13 WRITTEN NOTICES**

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party’s address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party’s designated address.

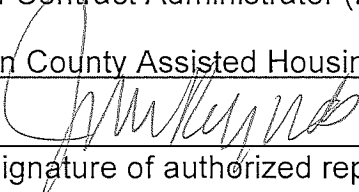
**SIGNATURES**

**Contract administrator (HUD or PHA)**

Name of Contract Administrator (Print)

Jefferson County Assisted Housing Corporation

By:

  
Signature of authorized representative

Eric Q. Strong, Chief Executive Officer  
Name and official title (Print)

Date


3/29/06

**Owner**

Name of Owner (Print)

Whitehill Estates II, L. P.

By

  
Signature of authorized representative

James Kincaid, President  
Name and title (Print)

Date

3/27/06

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**EXHIBIT A**

**IDENTIFICATION OF UNITS ("CONTRACT UNITS")  
BY SIZE AND APPLICABLE CONTRACT RENTS**

<b>Number of Contract Units</b>	<b>Number of Bedrooms</b>	<b>Contract Rent</b>
12	1 BR	\$477
28	2 BR	\$541
12	2 BR - TH	\$547
16	3 BR	\$573

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

04-24-09P12:16 RCVD

04-10-09A10:32 RCVD

**U.S. Department of Housing and Urban Development**

**Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT**

**MULTI-YEAR TERM**

Petersburg East II

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text.  
These endnotes are instructions for preparation of the Basic Renewal Contract.  
The instructions are not part of the Renewal Contract

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**U.S. Department of Housing and Urban Development  
Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT<sup>1</sup>**

**MULTI-YEAR TERM**

**1 CONTRACT INFORMATION<sup>2</sup>**

**PROJECT**

**Section 8 Project Number:** VA36L000113

**Section 8 Project Number of Expiring Contract:** SAME

**FHA Project Number (if applicable):** N/A

**Project Name:** Petersburg East II

**Project Description:<sup>3</sup>**

This property consists of 6 Buildings with 68 (12) 1 BR, (40) 2 BR, and (16) 3 BR Section 8 units. The property is located at 2385 Navajo Ct., Petersburg, VA 23803 and is in the county of Petersburg City.

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Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

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**TYPE OF RENEWAL**

- X Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

**PARTIES TO RENEWAL CONTRACT**

**Name of Contract Administrator<sup>4</sup>**

JEFFERSON COUNTY ASSISTED HOUSING CORPORATION

**Address of Contract Administrator**

500 OFFICE PARK DRIVE SUITE 300  
BIRMINGHAM, AL 35223

**Name of Owner<sup>5</sup>**

Whitehill Estates II, LP

**Address of Owner**

405 Atlantis Road, Suite B  
Cape Canaveral, FL 32920

**2 TERM AND FUNDING OF RENEWAL CONTRACT**

- a** The Renewal Contract begins on May 1, 2009<sup>6</sup> and shall run for a period of (5) five<sup>7</sup> years.
- b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ 404,729.00,<sup>8</sup> an amount sufficient to provide housing assistance payments for approximately (60) sixty<sup>9</sup> months of the first annual increment of the Renewal Contract term.



- 
- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

### 3 DEFINITIONS

**ACC.** Annual contributions contract.

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

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**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

#### 4 RENEWAL CONTRACT

##### a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

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**b Statutory authority**

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

**c Expiring Contract**

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

- a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such

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provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

- b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
- (1)** Identification of contract units by size and applicable contract rents;
  - (2)** The amount of the monthly contract rents;
  - (3)** Contract rent adjustments; and
  - (4)** Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c** The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## **6 CONTRACT RENT**

### **a Initial contract rents**

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### **b Contract rent adjustments**

#### **(1) OCAF or Budget-Based Rent Adjustments**

- 
- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
- (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) **Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*).**
- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

- 
- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
  - (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.
- (c) **Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

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**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

---

**7 OWNER WARRANTIES**

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

**10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.



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**11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

**12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

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**13 WRITTEN NOTICES**

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

**SIGNATURES**

**Contract administrator (HUD or PHA)**

Name of Contract Administrator

JEFFERSON COUNTY ASSISTED HOUSING CORPORATION

By: Robert J. McLaughlin  
Signature of authorized representative

for ERIC Q. STRONG, CHIEF EXECUTIVE OFFICER  
Name and official title

Date 04/12/2009

**U.S. Department of Housing and Urban Development**

By: Charles C. Famuliner  
Signature of authorized representative

Charles C. Famuliner, Authorized Agent, Richmond Multifamily Program Center

Name and official title

Date 4/17/09

**Owner**

Name of Owner

Whitehill Estates II, LP

By: James Kincaid  
Signature of authorized representative

James Kincaid, Vice President  
Name and title

Date 4/09/2009

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**EXHIBIT A**

**IDENTIFICATION OF UNITS ("CONTRACT UNITS")  
BY SIZE AND APPLICABLE CONTRACT RENTS**

**Section 8 Contract Number: VA36L000113  
FHA Project Number (if applicable): N/A  
Effective Date of the Rent Increase (if applicable): 05/01/2009**

<b>Number of Contract Units</b>	<b>Number of Bedrooms</b>	<b>Contract Rent</b>	<b>Utility Allowance</b>	<b>Gross Rent</b>
12	1 BR	\$521	\$97	\$618
12	2 BR-TH	\$597	\$124	\$721
28	2 BR	\$590	\$107	\$697
16	3 BR	\$624	\$120	\$744

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**NOTE:** This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

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Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

**ADDENDUM TO SECTION 8 HAP CONTRACT RENEWAL**

Owner agrees as a condition of renewing the Section 8 Contract that, in the event HUD's Real Estate Assessment Center (REAC) issues a physical inspection report to the Owner that has a score which evidences Owner failure to comply with HUD's Uniform Physical Condition Standards and Physical Inspection Requirement, or if the Owner is negotiating a Corrective Plan of Action to repair deficient items on the REAC inspection, or, if the Owner agreed to a Corrective Plan of Action and has endorsed said Plan, HUD may terminate the Contract after the renewal providing the Owner a reasonable period, as determined by HUD, to correct deficiencies or if the Owner fails to perform under an approved Correction Action Plan to Repair. Notwithstanding the foregoing, HUD may, at its option, continue the contract or renew said contract to facilitate the provision of vouchers for such reasonable time (not to exceed 180 days) as may be necessary to relocate eligible residents with Section 8 Vouchers. The Owner agrees to cooperate in the relocation of the residents by providing to HUD such information on income and occupancy as may be necessary to relocate the tenants. Upon relocation of such residents the Contract shall be terminated.

Whitehill Estates - II, LP

by: James K. K... VP

(Owner)

04/09/2009



**Part G - Information on Mortgagor Entity**

Name of Entity

Whitehill Estates II, LP

Type of Entity

- Individual     General Partnership     Joint Tenancy/Tenants in Common     Other (specify)  
 Corporation     Limited Partnership     Trust

List all Principals Comprising Mortgagor Entity: provide name and title of each principal. Use extra sheets if needed. If mortgagor is a:

- corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest.
- partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership.
- trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.

Name and Title

Neal Harding, CEO of the General Partner - Whitehill, Incorporated

Name and Title

James Kincaid, President of the General Partner - Whitehill, Incorporated

National Development Foundation, Incorporated - A Florida Non-Profit Corporation, Managing Member of the General Partner

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

**Part H - Owner Certification**

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name and Title	Authorized Official's Signature	Date (mm/dd/yyyy)
James Kincaid, Vice President	<i>James Kincaid</i>	04/09/2009

**Part I - HUD/Lender Approval**

Addendum Number	Branch Chief/Lender Official Signature	Date (mm/dd/yyyy)
HAP Contract Number	<i>Robert J. McLaughlin</i>	04/13/2009
VA36L000113	Director, Housing Management Division Signature	
Exhibit Number		
Loan Servicer Signature	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)

RECEIVED MAY 08 2014.

RECEIVED APR 29 2014

Attachment 11-2

**U.S. Department of Housing and Urban Development  
Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS  
BASIC RENEWAL CONTRACT  
MULTI-YEAR TERM**

**Petersburg East II (VA36L000113 )**

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract

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Basic Renewal Contract

Multi-Year Term  
REV-11-05-2007



## TABLE OF SECTIONS

<b>1 CONTRACT INFORMATION</b>	<b>1</b>
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U.S. Department of Housing and Urban Development  
Office of Housing

Project-based Section 8

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT<sup>1</sup>**

**MULTI-YEAR TERM**

**1 CONTRACT INFORMATION<sup>2</sup>**

**PROJECT**

Section 8 Project Number: **VA36L000113**

Section 8 Project Number of Expiring Contract: **Same**

FHA Project Number (if applicable): **N/A**

Project Name: **Petersburg East II**

Project Description:<sup>3</sup>

**This property consists of 6 Buildings with 68 (12) 1 BR, (40) 2 BR, and (16) 3 BR Section 8 units. The property is located at 2385 Navajo Ct., Petersburg, VA 23803 and is in the county of Petersburg City.**

**TYPE OF RENEWAL**

- Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

---

Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

**PARTIES TO RENEWAL CONTRACT**

Name of Contract Administrator<sup>4</sup>

**Navigate Affordable Housing Partners**

Address of Contract Administrator

**500 Office Park Drive, Suite 300  
Birmingham, AL 35223**

Name of Owner<sup>5</sup>

**WHITEHALL ESTATES II, LP**

Address of Owner

**405 Atlantis Road, Ste. B  
Cape Canaveral, FL 32920**

**2 TERM AND FUNDING OF RENEWAL CONTRACT**

**a** The Renewal Contract begins on **5/1/2014**<sup>6</sup> and shall run for a period of **20 (Twenty)**<sup>7</sup> years.

**b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ **\$461,183**<sup>8</sup>, an amount sufficient to provide housing assistance payments for approximately **12**<sup>9</sup> months of the first annual increment of the Renewal Contract term.

- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

### **3 DEFINITIONS**

**ACC.** Annual contributions contract.

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at

---

the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

#### 4 RENEWAL CONTRACT

##### a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

##### b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

##### c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing

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assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

- a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).
- b All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
  - (1) Identification of contract units by size and applicable contract rents;
  - (2) The amount of the monthly contract rents;

- 
- (3) Contract rent adjustments; and
  - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## 6 CONTRACT RENT

### a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### b Contract rent adjustments

#### (1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
  - (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.



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**(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

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**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

**7 OWNER WARRANTIES**

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

**10 STATUTORY CHANGES DURING TERM**

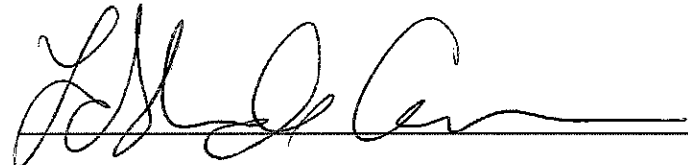
If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of

**SIGNATURES**

**Contract administrator (HUD or PHA)**

Name of Contract Administrator

**Navigate Affordable Housing Partners**

By: 


Signature of authorized representative

**Eric Q. Strong, CEO**

Name and official title

Date 4/29/14

**U.S. Department of Housing and Urban Development**

By: 

Signature of authorized representative

**Uche A. Oluku - Director, Multifamily Housing, United States Dept. of Housing and Urban Development**

Name and official title

Date 4/30/2014

**Owner**

Name of Owner

**WHITEHILL ESTATES II, LP**

By: 

Signature of authorized representative

**James Kincaid, President of the GP, - Whitehill, Inc.**

Name and title

Date 4/28/2014

## EXHIBIT A

## IDENTIFICATION OF UNITS ("CONTRACT UNITS")

## BY SIZE AND APPLICABLE CONTRACT RENTS

Section 8 Contract Number: **VA36L000113**FHA Project Number (if applicable): **N/A**Effective Date of the Rent Increase (if applicable): **5/1/2014**

<u>Number of Contract Units</u>	<u>Number of Bedrooms</u>	<u>Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
12	<b>1 Bedroom, Family</b>	\$ 574	\$ 95	\$ 669
12	<b>2 Bedroom Townhouse</b>	\$ 659	\$ 125	\$ 784
28	<b>2 Bedroom, Family</b>	\$ 651	\$ 98	\$ 749
16	<b>3 Bedroom, Family</b>	\$ 688	\$ 112	\$ 800

**NOTE:** This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

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**EXHIBIT B**  
**DISTRIBUTIONS LIMITATION**

**FOR PROJECT NOT SUBJECT TO DISTRIBUTIONS LIMITATION:**

If the project is not subject to any limitation on distributions of project funds, either pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, neither HUD nor the PHA may impose any additional limitation on distributions of project funds during the term of the Renewal Contract.

**FOR PROJECT SUBJECT TO DISTRIBUTIONS LIMITATION:**

If the project is subject to any limitation on distributions of project funds pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, such limitation on distributions shall continue to be applicable during the term of the Renewal Contract, provided that the owner may take an increased distribution in accordance with the Section 8 Renewal Policy Guidance for Renewal of Project-Based Section 8 Contracts, (the "Guidebook").

However, owners of Section 8 properties must maintain the property in good condition, as demonstrated by a REAC score of 60 or higher, in order to take increased distributions.

The owner shall comply with the distribution limitations. The maximum distribution to the owner shall be equal to the total of:

- 1 The limited distribution permitted pursuant to the FHA Regulatory agreement or the Expiring Contract, **plus**
- 2 Any increased distribution as approved by HUD in accordance with the Guidebook.

**PENDLETON HOUSING PARTNERS, L.P.**

**AN OHIO LIMITED PARTNERSHIP**

**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

**August 20, 2021**

<b>GENERAL PARTNER:</b>	<b>PENDLETON HOUSING MANAGEMENT, LLC 415 1st Avenue North #19240 Seattle, Washington 98109</b>
<b>LIMITED PARTNER:</b>	<b>CREA PENDLETON III APARTMENTS, LLC 30 South Meridian Street, Suite 400 Indianapolis, Indiana 46204</b>
<b>SPECIAL LIMITED: PARTNER:</b>	<b>CREA SLP, LLC 30 South Meridian Street, Suite 400 Indianapolis, Indiana 46204</b>

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**PENDLETON HOUSING PARTNERS, L.P.**  
**AN OHIO LIMITED PARTNERSHIP**

**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP is made and entered into as of August 20, 2021, by and among PENDLETON HOUSING MANAGEMENT, LLC, an Ohio limited liability company (the “General Partner”), CREA PENDLETON III APARTMENTS, LLC, a Delaware limited liability company (the “Limited Partner”), CREA SLP, LLC, an Indiana limited liability company (the “Special Limited Partner”), and STEPHEN R. WHYTE, an individual (the “Withdrawing Limited Partner”).

**RECITALS**

WHEREAS, the General Partner, as general partner, executed a Certificate of Limited Partnership (the “Certificate”) for the formation of PENDLETON HOUSING PARTNERS, L.P. (the “Partnership”) pursuant to the terms of the Ohio Uniform Partnership Act (the “Act”), which Certificate was subsequently filed with the Office of Secretary of State of the State of Ohio (the “State of Formation”) on April 28, 2020;

WHEREAS, the General Partner, the Limited Partner and the Special Limited Partner wish to continue the Partnership pursuant to the Act;

WHEREAS, the Partnership has been formed to acquire, develop, finance, rehabilitate, own, maintain and operate a 78-unit multifamily Project Property, which will be for rental to individuals and families of low-income, known as Pendleton III Apartments and located in Cincinnati, Ohio;

WHEREAS, the parties hereto now desire to enter into this Partnership Agreement to (i) continue the Partnership under the Act; (ii) withdraw the Withdrawing Limited Partner from the Partnership; (iii) admit the Limited Partner and the Special Limited Partner to the Partnership as limited partners and (iv) set forth all of the provisions governing the Partnership.

NOW, THEREFORE, in consideration of the foregoing, of mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree to continue the Partnership pursuant to the Act, as set forth in this Partnership Agreement, which reads in its entirety as follows:

**ARTICLE 1**  
**ORGANIZATION**

**Section 1.1 Continuation of Partnership.** The Partnership was formed as of April 28, 2020 by the filing of the Certificate. The Partnership’s original partnership agreement was entered into as of April 28, 2020 by and between the General Partner, as general partner, and the Withdrawing Limited Partner, as limited partner (the “Original Agreement”). The General Partner, the Limited Partner and the Special Limited Partner desire to and do hereby amend and restate the

Original Agreement in its entirety to admit the Limited Partner and the Special Limited Partner upon the terms and conditions set forth in this Agreement.

By its execution of this Agreement, the Withdrawing Limited Partner hereby withdraws from the Partnership, and the Withdrawing Limited Partner, as such, shall have no interest or rights in the Partnership and furthermore acknowledges, represents and warrants that he has no claims or rights against the Partnership as a former Partner as of the date of this Agreement.

**Section 1.2 Character and Purpose of Business.** The general character and purpose of the business of the Partnership shall be to: (a) acquire, rehabilitate, own, finance, lease and operate the Project Property as a qualified low income housing project within the meaning of the Code; (b) qualify the Project Property for historic tax credits within the meaning of §47 of the Code; (c) eventually sell or otherwise dispose of the Project Property in a manner consistent with the provisions of this Partnership Agreement; and (d) engage in all other activities incidental or related thereto.

**Section 1.3 Name of Partnership.** The name of the Partnership is “Pendleton Housing Partners, L.P.”

**Section 1.4 Principal Place of Business.** The address of the principal place of business of the Partnership shall be 1700 Seventh Avenue, Suite 2000, Seattle, Washington 98101, or such other address as may from time to time be selected by the Partners.

**Section 1.5 Principal Office.** The address of the principal office of the Partnership in Ohio shall be at such address as may from time to time be selected by the Partners.

**Section 1.6 Agent for Service of Process.** CT Corporation System shall be the Partnership’s agent for service of process. The agent’s address for such purpose shall be 4400 Easton Commons Way, Suite 125, Columbus, Ohio 43219, or such other address as the Partners may select from time to time.

**Section 1.7 Name and Address of General Partner.** The name and address of the General Partner are as follows:

Pendleton Housing Management, LLC  
415 1st Avenue North #19240  
Seattle, Washington 98109

**Section 1.8 Names and Addresses of Limited Partner and Special Limited Partner.**

The name and address of the Limited Partner are as follows:

CREA Pendleton III Apartments, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

The name and address of the Special Limited Partner are as follows:

CREA SLP, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

**Section 1.9 Governmental Filings.** The General Partner shall make all governmental filings as are necessary or appropriate to qualify the Partnership to do or continue to do business in the State and any other jurisdiction or to otherwise carry out the purposes and intent of this Partnership Agreement. In addition, the General Partner shall timely and properly file of record the Restrictive Covenant.

**Section 1.10 Term of Partnership.** The term of the Partnership began on April 28, 2020 (the date on which the Partnership's certificate of limited partnership was first filed with the Office of Secretary of State of the State of Ohio) and the Partnership shall continue in existence in perpetuity, unless it is earlier dissolved and terminated pursuant to the provisions of this Partnership Agreement.

**Section 1.11 Definitions.** All capitalized words and phrases used in this Partnership Agreement (other than the full names and addresses of the Partners and governmental subdivisions and agencies) have the meanings set forth in **Appendix I.**

## **ARTICLE 2** **CAPITAL CONTRIBUTIONS**

### **Section 2.1 General Partner's Capital Contributions.**

(a) The General Partner will make a cash Capital Contribution to the Partnership in the amount of \$100 and, upon the execution of this Partnership Agreement, shall provide documentation that the Capital Contribution has been made. In no event shall the aggregate Capital Contributions of the General Partner exceed \$100 without the Consent of the Limited Partner.

(b) The General Partner has assigned and hereby assigns and has caused and shall cause its Affiliates to assign to the Partnership all of its respective rights, title and interest in, to, and under all agreements, licenses, approvals, permits, Tax Credit allocations, Historic Tax Credit awards and any other tangible or intangible personal property which is related to the Project Property or which is required to permit the Partnership to pursue its business and carry out its purposes as contemplated in this Partnership Agreement. The General Partner's Capital Account will not be credited with any amount as a result of its assignment to the Partnership of the various items referred to in the immediately preceding sentence.

(c) If any Developer Fee including any accrued but unpaid interest thereon (if any) remains (or is expected to remain) at the expiration of the Compliance Period, the General Partner shall make an additional Capital Contribution to the Partnership in the aggregate amount of the unpaid Developer Fee no later than 6 months prior to the expiration of the Compliance Period, and the General Partner shall cause the Partnership to immediately pay the entire unpaid amount of Developer Fee. If the General Partner does not make such additional Capital Contribution as required in the preceding sentence, such Capital Contribution will be deemed to have been paid by

the General Partner and unpaid Developer Fee will be deemed to have been paid by the Partnership, and the Developer's sole recourse for nonpayment shall be against the General Partner.

**Section 2.2 Special Limited Partner's and Limited Partner's Capital Contributions.**

(a) The Special Limited Partner shall pay its entire Capital Contribution of \$100 to the Partnership in cash as of the date of admission.

(b) The Limited Partner shall contribute as its Capital Contribution the sum of \$9,818,861 payable in accordance with the schedule of payments set forth on Appendix VIII. The obligation of the Limited Partner to make the Capital Contributions is subject to satisfaction of the conditions precedent to each installment of its Capital Contribution as set forth in *Section 2.2(c)*, *Section 5.4(a)* and Appendix VIII. Each such installment of the Capital Contribution shall be made within ten (10) Business Days of the satisfaction of the last condition precedent thereto.

(c) All installments of Capital Contributions by the Limited Partner made through Construction Completion shall be funded on a monthly draw basis. The obligation of the Limited Partner to make any Capital Contribution pursuant to this *Section 2.2* shall be expressly conditioned upon each of the following requirements being satisfied at all times prior to and including the due dates of the aforesaid payments:

- (1) the General Partner shall have properly completed, executed and delivered to the Limited Partner a certificate relating to the appropriate installments in the forms attached in Appendix VIII;
- (2) the General Partner shall have fully complied with all of its covenants and obligations set forth in this Partnership Agreement (including without limitation, those covenants and obligations set forth in *Section 5.3* which shall be true and correct in all material respects);
- (3) no event shall have occurred which would permit the Limited Partner to give an Election Notice under *Section 5.10(g)*;
- (4) the Project must be In Balance; and
- (5) there has been no change in any law or regulation, which would adversely affect the ability of the Partnership to generate Tax Credits.

Until repayment in full of the Bridge Loan, the General Partner hereby directs the Limited Partner, and the Limited Partner hereby agrees, to deposit its Capital Contributions (other than the First Installment and the Second Installment) as and when due pursuant to the terms of this Agreement directly to the Bridge Lender in accordance with payment instructions received from the Bridge Lender pursuant to the terms of the Borrower Pledge Agreement (as such term is defined below). The foregoing payments and deposits by the Limited Partner shall be made for administrative convenience only, and such payments shall be deemed to be payment of the Limited Partner's Capital Contributions to the Partnership.

Each of the General Partner, the Limited Partner and the Special Limited Partner hereby acknowledges, agrees, and consents to the Partnership signing, delivery, and performance of the Pledge and Security Agreement (Borrower) dated as of August 20, 2021 (the “Borrower Pledge Agreement”), the Partnership’s grant of a security interest to the Bridge Lender in the pledged Capital Contributions and the other collateral described in the Borrower Pledge Agreement and the Bridge Lender’s enforcement of all of its rights and remedies under the Borrower Pledge Agreement in the event that the Bridge Lender forecloses on the collateral therein.

The General Partner and the Limited Partner agree not to amend or modify the payment direction in this Section 2.2(c) without the written consent of the Bridge Lender.

**Section 2.3**      **Interest on Capital Contributions.** The Partnership shall not pay any Partner interest on its Capital Contribution.

**Section 2.4**      **Withdrawal and Return of Capital Contributions.** No Partner has the right: (a) to withdraw any part of its Capital Contribution from the Partnership; (b) to demand a return of its Capital Contribution; or (c) to receive property other than cash in return for its Capital Contribution.

**Section 2.5**      **Capital Accounts.**

(a) The Partnership shall maintain for each Partner a separate capital account in accordance with Section 1.704-1(b) of the Regulations. The Capital Account of each Partner consists of the amount of its Capital Contribution, and will be (1) increased by (i) the fair market value of any property contributed by it to the Partnership, (ii) the amount of any Partnership liability assumed by such Partner or which is secured by any Partnership Property distributed to such Partner, and (iii) such Partner’s allocable share of Profits, and (2) decreased by (i) the amount of any cash distributed to it, (ii) the fair market value of any Partnership Property distributed to it, (iii) the amount of any liability of such Partner assumed by the Partnership or which is secured by any property contributed by such Partner to the Partnership, and (iv) its allocable share of Losses. The Capital Account of each Partner will also be adjusted to the extent required by Section 1.704-1(b)(2)(iv)(j) of the Regulations.

(b) If any Partnership Interests are transferred in accordance with the terms of this Partnership Agreement, then the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Partnership Interests. Upon the occurrence of any of the following events, and if required to cause the provisions herein regarding the maintenance of Capital Accounts to comply with Section 1.704-1(b) of the Regulations, the Partnership Property shall be revalued and the Partners’ Capital Accounts adjusted to reflect the gain (or loss) that would have been allocated to each Partner if all the Partnership Property had been sold at its fair market value immediately prior to the occurrence of such event:

(1) 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;

(2) The Partnership distributing to a Partner more than a de minimis amount of property or money in consideration for an interest in the Partnership; or

(3) The “liquidation” of the Partnership within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations.

The revaluation of the Partnership Property referred to in the immediately preceding sentence shall be made in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

The foregoing provisions and all other provisions of this Partnership Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations.

**Section 2.6 Partnership Loans.** Subject to the limitations set forth in *Section 5.2(f)* and *Section 5.4(g)*, if from time to time funds are needed by the Partnership in excess of those provided by the Project Loans, Capital Contributions of the Partners, and funds required to be provided by the General Partner or any of its Affiliates pursuant to any obligation hereunder or any other agreement (such as pursuant to *Sections 5.4(i)* and *(l)*), any Partner or other Person may loan such additional funds to the Partnership at an interest cost to the Partnership and upon such other terms, as agreed upon by the General Partner and the Special Limited Partner in their reasonable discretion, subject to compliance with the terms of existing loan agreements and this Partnership Agreement. Any loans made by the General Partner or its Affiliates will not bear interest in excess of one percent (1%) per annum over the Prime Rate. Any Partner making any loan to the Partnership will be considered, with respect to the monies advanced, a general creditor of the Partnership and not a Partner. Any loan made hereunder by a Partner will be paid as provided in *Section 4.1* and *Section 4.2* hereof.

**Section 2.7 Additional Capital Contributions.** Except as expressly provided in this Partnership Agreement, no Partner is obligated to make contributions to the capital of the Partnership.

**ARTICLE 3**  
**ALLOCATION OF PROFITS, LOSSES AND TAX CREDITS**

**Section 3.1 Profit and Loss Allocations.** All Profits and Losses for any Fiscal Year of the Partnership, except those items in *Section 3.2* below, shall be allocated to the Partners in accordance with the following percentages. Every item of income, gain, loss, deduction, or tax preference entering into the computation of such Profits and Losses, or applicable to the period during which such Profits and Losses were realized, shall be considered allocated to each Partner in the same proportion as Profits and Losses are allocated to such Partner.

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

Allocations to the Limited Partner and the Special Limited Partner herein shall be made in accordance with the percentages set forth in this *Section 3.1* unless specifically stated otherwise.

**Section 3.2 Special Allocations.** Notwithstanding anything to the contrary contained in *Section 3.1*, the following special allocations shall in all events apply in determining

the allocation of Profits and Losses among the Partners and shall be made prior to the allocations required under *Section 3.1*.

(a) **Depreciation, Tax Credits and Historic Tax Credits.**

(1) Depreciation (cost recovery) deductions, Tax Credits and Historic Tax Credits shall be allocated among the Partners in accordance with the following percentages:

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

(2) Any recapture of Tax Credits shall be allocated to the Partners who were allocated (or whose predecessors-in-interest were allocated) the depreciation/cost recovery deduction and Tax Credits associated therewith.

(3) Any recapture of Historic Tax Credits shall be allocated to the Partners who were allocated (or whose predecessors-in-interest were allocated) the profits and Historic Tax Credits associated therewith.

(b) **Limitation on Allocations of Losses.**

(1) To the extent the allocation of any Losses to a Partner would cause that Partner to have an Adjusted Capital Account Deficit at the end of any Fiscal Year of the Partnership, then those Losses will not be allocated to that Partner, but rather will be specially allocated to the remaining Partners in proportion with their relative interests in the Partnership.

(2) In the event some but not all of the Partners would have Adjusted Capital Account Deficits due to an allocation of Losses, the limitation set forth in this *Section 3.2(b)* shall be applied on a Partner by Partner basis so as to allocate the maximum permissible Losses to each Partner who is not a General Partner under Treas. Reg. Section 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitation set forth in this *Section 3.2(b)* shall be allocated to the General Partner.

(c) **Profit Chargeback.** To the extent any Losses are specially allocated to a Partner in accordance with *Section 3.2(b)*, then Profits will thereafter first be specially allocated to such Partner in proportion to and in an amount (1) up to but not exceeding the amount of any such special allocation of Losses away from such Partner under such subparagraph (b) but (2) not to the extent that Losses or depreciation deductions would be allocated to the remaining Partners in excess of the amount permitted by *Section 3.2(b)*.

(d) **Partnership Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the Partnership's Minimum Gain attributable to Nonrecourse Liabilities during any taxable year, each Partner shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such year (and, if necessary for subsequent years) in proportion to, and to the extent of, an amount equal to



such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(g)(2). In the event that such net decrease in the Partnership's Minimum Gain occurs in connection with the disposition of all or any portion of the Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of such disposition. It is the intent that the allocations provided in this *Section 3.2(d)* shall be determined in accordance with and only to the extent required by Treas. Reg. Section 1.704-2(f) and (j)(2)(i).

(e) **Partner Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the amount of the Partnership's Minimum Gain during any taxable year with respect to a Partner Nonrecourse Debt, the Partner bearing the Economic Risk of Loss with respect to such Partner Nonrecourse Debt shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such taxable year (and, if necessary, for subsequent years) in proportion to, and to the extent of the amount of such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(i)(4). In the event that such net decrease in the Partner's Minimum Gain occurs in connection with the disposition of all or any portion of Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of such disposition. It is the intent that the allocations provided in this *Section 3.2(e)* shall be determined in accordance with and only to the extent required by the provisions of Treas. Reg. Section 1.704-2(i) and (j)(2)(ii).

(f) **Qualified Income Offset.** If a Partner unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, then items of Partnership income or gain will be specially allocated to that Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of that Partner as quickly as possible. The special allocations required pursuant to this subparagraph (f) are made only if and to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made as if this subparagraph (f) were not in this Partnership Agreement. This subparagraph (f) is intended to comply with the qualified income offset requirements of Section 1.704-1(b)(2)(ii)(d) of the Regulations and will be interpreted consistently therewith.

(g) **Gross Income Allocation.** In the event any Partner has a deficit Capital Account at the end of any Fiscal Year (provided such Fiscal Year is from and after the end of the Historic Tax Credit Delivery Period) in excess of the sum of (i) the amount that such Partner must restore pursuant to any provision of this Partnership Agreement, if any, and (ii) the amount such Partner is deemed obligated to restore pursuant to the penultimate sentence of Treas. Reg. Section 1.704-2(g) and Section 1.704-2(i)(5), such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this *Section 3.2(g)* shall be made if and only to the extent that such Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 3 have been tentatively made as if these *Sections 3.2(f)* and *3.2(g)* hereof were not in this Partnership Agreement.

(h) **Nonrecourse Deductions.** Nonrecourse Deductions shall be specially allocated among the Partners in accordance with the same percentages set forth in *Section 3.1* with respect to Profits and Losses.

(i) **Partner Nonrecourse Deductions.** Partner Nonrecourse Deductions shall be specially allocated to the Partner who bears the Economic Risk of Loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i) of the Regulations.

(j) **Section 754 Adjustment.** To the extent an adjustment to the adjusted tax basis of any Partnership Property undertaken pursuant to Section 734(b) or 743(b) of the Code is required to be taken into account in determining the Capital Accounts of the Partners under Treas. Reg. Section 1.704-1(b)(2)(iv)(m), then the amount of such adjustment to the Capital Accounts will 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 will be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to the aforementioned section of the regulations.

(k) **Imputed Interest.** To the extent the Partnership has taxable interest income with respect to any Capital Contribution pursuant to Section 483 or Sections 1271 through 1288 of the Code, then (i) such interest income shall be specially allocated to the Partner to whom such Capital Contribution relates, and (ii) the amount of such interest income shall be excluded from the Capital Contributions credited to such Partner's Capital Account in connection with the payments of principal with respect to such Capital Contribution.

(l) **Curative Allocations.** In the event that income, loss or items thereof are allocated to one or more Partners pursuant to *Sections 3.2(f)* and *(g)*, subsequent income, loss or items thereof shall be allocated (subject to the provisions of *Sections 3.2(f)* and *(g)*) to the Partners so that, to the extent possible in the judgment of the General Partner, the net amount of allocations shall be equal to the amount that would have been allocated had *Section 3.2* not been applied. Notwithstanding the foregoing, the allocation of depreciation deductions will be governed by *Section 3.2(a)* and this *Section 3.2(l)* shall not apply to allocations of depreciation deductions.

(m) **Allocation of Income or Gain from Sales.** All items of Partnership income or gain arising from events resulting in Net Cash from Sales or Refinancings shall be allocated:

*First*, as specified in *Sections 3.2(c)* through *(g)*, *(j)* and *(l)* and *Section 3.4(c)*;

*Second*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose, the Limited Partner has a negative Capital Account balance, 100% to the Limited Partner until the Limited Partner's negative Capital Account is reduced to zero;

*Third*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose the General Partner has a negative Capital Account balance, 100% to the General Partner until such negative Capital Account balance is reduced to zero;

*Fourth*, to each Partner until such Partner's positive Capital Account balances equal any amount to be distributed to such Partner pursuant to *Section 4.2(a)*;

*Fifth*, to the Partners in accordance with the percentages specified in *Section 4.2(b)*.

(n) **Special Adjustment.** Notwithstanding any provision of this Partnership Agreement to the contrary and prior to making, with respect to a Fiscal Year, any special allocations set forth in this *Section 3.2*, (1) items of expenses and other deductions (other than depreciation, amortization, cost recovery deductions, and Nonrecourse Deductions) incurred in such Fiscal Year for any Fiscal Year, equal to the amount of any loan advances to the Partnership made or required to be made in such Fiscal Year by the General Partner or any of its Affiliates pursuant to this Partnership Agreement shall be specially allocated to the General Partner making the loan; and (2) any "cancellation of debt income" (defined in Section 1.61-12 of the Regulations) arising before the Limited Partner's admission to the Partnership shall be specially allocated to the General Partner.

(o) **Limited Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the Limited Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner.

(p) **General Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the General Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner; provided, however, that such right will only be exercisable if the Limited Partner's Capital Account is negative or projected to be negative in that year and such negative capital account would result in exit tax liability to the General Partner in excess of \$0 (as determined by the Special Limited Partner).

**Section 3.3 Timing of Allocations.** Except as otherwise expressly provided herein, or under the Code, all allocations of Profits, Losses, Tax Credits and Historic Tax Credits shall be made as of the last day of each Fiscal Year of the Partnership.

**Section 3.4 Other Allocation Rules.** The following rules shall apply for the purpose of interpreting and applying the provisions of this Article 3 relating to the allocation of Profits, Losses, Tax Credits and Historic Tax Credits among the Partners:

(a) **Excess Nonrecourse Liabilities.** Solely for purposes of determining a Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Section 1.752-3(a)(3) of the Regulations, the Partners' respective interests in Partnership Profits shall be those percentage interests set forth in *Section 3.1* (determined without regard to *Section 3.2*).

(b) **Effect of Cash Distributions.** To the extent permitted by Section 1.704-2(h) and Section 1.704-2(i)(6) of the Regulations, the General Partner shall endeavor to treat distributions of Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for the Limited Partner, as of the end of the Fiscal Year in which a distribution occurs.

(c) **Recharacterization of Fee as Distribution.** If any fee or portion thereof which would be considered an ordinary and necessary expense of the Partnership payable to any Partner or any Affiliate thereof is determined to be a nondeductible distribution from the Partnership to a Partner for federal income tax purposes, there shall be allocated to such Partner an amount of gross income equal to such distribution.

(d) **Deductions Attributable to Operating Deficit Loans.** In the event that the General Partner makes any Operating Deficit Loans pursuant to *Section 5.4(i)*, any deductions or losses of the Partnership attributable to the use of those funds shall be specially allocated to the General Partner.

(e) **Income Attributable to General Partner Capital Contributions.** Any income attributable to the Capital Contribution of the General Partner shall be allocated to the General Partner.

**Section 3.5 Tax Effect of Allocations.** Except as otherwise required under the second paragraph of this *Section 3.5*, the allocation of Profits, Losses, Tax Credits and Historic Tax Credits to any Partner under this Article 3 shall be deemed an allocation to that Partner of the same proportionate part of each separate item of Partnership taxable income, gain, loss, deduction or credit which comprise such Profits, Losses, Tax Credits and Historic Tax Credits, including, without limitation, any “unrealized receivable” or “substantially appreciated inventory item” under Section 751 of the Code. The Partners are aware of the income tax consequences of the allocations made pursuant to this Article 3 and hereby agree to be bound by the provisions of this Article 3 in reporting their respective shares of Partnership income, gain, loss, deduction and credit for income tax purposes.

Notwithstanding anything to the contrary contained in this Article 3, income, gain, loss, deduction and credit with respect to any Partnership Property contributed to the capital of the Partnership by any Partner shall, solely for tax purposes, be allocated among the Partners so as to take into account any variation between the adjusted tax basis of such Partnership Property to the Partnership for federal income tax purposes and the value assigned to such Partnership Property for the purposes of the computation of the Partners’ Capital Accounts. If any revaluation of the Partnership Property is made by the General Partner (which revaluation may only be made with the Consent of the Special Limited Partner), then any subsequent allocations of income, gain, loss, deduction and credit with respect to such Partnership Property shall take into account any variation between the adjusted tax basis of such Partnership Property for federal income tax purposes and the value assigned to such Partnership Property as a result of such revaluation. All allocations required under this paragraph of *Section 3.5* are solely for purposes of federal, state and local income taxes and shall not affect or in any way be taken into account in computing any Partner’s Capital Account or any Partner’s share of Profits, Losses, Tax Credits, Historic Tax Credits or

other items or distributions required or permitted to be made pursuant to any provision of this Partnership Agreement.

**Section 3.6 Miscellaneous Allocations.**

(a) Except in the case of any Net Cash from Sales and Refinancings pursuant to *Section 4.2*, if any Partnership expenditure treated as a deduction on its federal income tax return is disallowed as a deduction and treated as a distribution pursuant to Section 731(a) of the Code, there shall be a special allocation of gross income to the General Partner deemed to have received such distribution equal to the amount of such distribution.

(b) From and after the end of the Historic Tax Credit Delivery Period, if the General Partner receives a distribution of Cash Flow pursuant to *Section 4.1(a)*, then there shall be allocated to the General Partner an amount of income equal to the amount of such distribution.

**ARTICLE 4**  
**DISTRIBUTIONS**

**Section 4.1 Distribution of Cash Flow.**

(a) Subject to any Requisite Approvals, after payment of the Asset Management Fee and the Incentive Leasing Fee, all net rental income prior to the achievement of Stabilized Operations shall be available to the Developer and the General Partner to pay Development Costs; thereafter, subject to any Requisite Approvals, Cash Flow shall be distributed in the following order and priority:

(1) *First*, to pay the Asset Manager its Asset Management Fee including any accrued but unpaid Asset Management Fee;

(2) *Second*, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(3) *Third*, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive from Cash Flow as payment to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) *Fourth*, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon, and then as a return of capital to the General Partner to the extent of any Capital Contribution by the General Partner related to payment of the Deferred Development Fee Note, until the aggregate amount distributed pursuant to this *Section 4.1(a)(4)* equals the amount of such General Partner Capital Contribution;

(5) *Fifth*, to the Operating Reserve Account until such time as such account is equal to the Operating Reserve Amount and then to the Replacement Reserve to fund required amounts from prior years not previously funded;

(6) Sixth, to pay the General Partner its Partnership Management Fee including any accrued but unpaid Partnership Management Fee;

(7) Seventh, to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*; and

(8) Eighth, during the Historic Tax Credit Delivery Period, the balance, if any, shall be distributed 99.989% to Limited Partner and 0.011% to the General Partner. From and after the end of the Historic Tax Credit Delivery Period, the balance, if any, shall be distributed 10% to the Limited Partner and 90% to the General Partner, first as payment of an Incentive Management Fee (but not in excess of 12% of the gross revenues of the Partnership less any fees payable to the General Partner or its Affiliates) and thereafter as a distribution.

**Section 4.2 Net Cash from Sales and Refinancings.** Except as otherwise provided in Article 10 hereof (pertaining to the liquidation and dissolution of the Partnership), Net Cash from Sales and Refinancings (with the exception of any proceeds owed to the Limited Partner and the Special Limited Partner from a contemporaneous refinancing of the Project that occurs in connection with *Sections 8.5* and *8.6* herein) shall be paid or distributed to the Partners as provided in this *Section 4.2*.

(a) Prior to winding up and dissolution, Net Cash from Sales and Refinancings shall, prior to making any distributions pursuant to *Section 4.2(b)* hereof, be paid out in the following order and priority:

(1) First, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(2) Second, to discharge, to the extent required by any lender or creditor, the debts and obligations of the Partnership (including any outstanding loan made pursuant to *Section 2.6* hereof);

(3) Third, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or the Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) Fourth, to the Limited Partner in the amount of the Exit Taxes, provided that no Exit Taxes shall be paid to the Limited Partner for a disposition pursuant to *Section 8.5* or *Section 8.6* hereof;

(5) Fifth, to the payment of any accrued but unpaid Asset Management Fee;

(6) Sixth, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon;

(7) Seventh, to fund reserves for contingent liabilities to the extent deemed reasonable by the Limited Partner (other than items listed below in this *Section 4.2(a)*);

(8) Eighth, to the General Partner to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*;

(9) Ninth, to the General Partner first to pay the Partnership Management Fee and then to pay the Disposition Fee; and

(b) After making the payments specified in *Section 4.2(a)*, the balance of Net Cash from Sales and Refinancings, if any, shall be distributed among the Partners in accordance with the following percentages during the Historic Tax Credit Delivery Period:

General Partner	0.01%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

From and after the end of the Historic Tax Credit Delivery Period, the balance of Net Cash from Sales and Refinancings, if any, shall be distributed among the Partners in accordance with the following percentages:

General Partner	89.999%
Special Limited Partner	0.001%
Limited Partner	<u>10.00%</u>
Total	100.000%

**Section 4.3 Timing of Distributions.** Distributions of Cash Flow shall be made annually within 90 days after the end of each Fiscal Year of the Partnership, but in no event prior to the Special Limited Partner's receipt and reasonable approval of the calculation of Cash Flow and draft annual Partnership financial statements. The determination of the amount of Cash Flow distributable annually to the Partners under this Article 4 shall be made based upon the state of facts existing on the last day of each Fiscal Year of the Partnership. Provided that no default has occurred and is continuing and to the extent permitted by HUD and the Project Lenders, the General Partner may elect to distribute Cash Flow at the end of the second quarter of any Fiscal Year (each, a "Semi-Annual Cash Flow Distribution") subject to the following conditions. No Semi-Annual Cash Flow Distribution may exceed the lesser of (a) 75% of the Cash Flow then available, or (b) 50% of the Cash Flow projected to be available for such Fiscal Year based on a current cash flow projection schedule prepared by the General Partner (which schedule shall take into account the actual operations of the Project and shall otherwise be reasonably acceptable to the Limited Partner). By electing to make any such Semi-Annual Cash Flow Distribution, the General Partner acknowledges and agrees that it must make an Operating Deficit Loan to the Partnership in the event that an Operating Deficit arises following such Semi-Annual Cash Distribution and, but for such Semi-Annual Cash Distribution, the Partnership would have had sufficient Cash Receipts to pay its Operating Expenses in full. Any Operating Deficit Loan made

by the General Partner in respect of the obligation described in the preceding sentence shall not reduce or otherwise diminish the maximum amount of the Operating Deficit Loans required under *Section 5.4(i)*. In the event that the Semi-Annual Cash Flow Distribution made at the end of the second quarter of any Fiscal Year exceeds the actual amount of Cash Flow generated in such Fiscal Year as reflected in the Partnership's audited financial statements (each, an "Excess Cash Flow Distributions"), the General Partner shall promptly reimburse the Partnership for any Excess Cash Flow Distributions that the General Partner or any Affiliate of the General Partner received (and each subsequent distribution of Cash Flow to a Person other than the General Partner or its Affiliates shall be reduced as and to the extent necessary to eliminate the Excess Cash Flow Distributions payable to such Person(s) as quickly as possible).

## **ARTICLE 5** **POWERS, RIGHTS AND DUTIES OF GENERAL PARTNER**

### **Section 5.1 Management of Partnership.**

The Partnership shall be managed by the General Partner, who shall exercise full and exclusive control over the affairs of the Partnership, subject, however, to the limitations on its authority set forth in this Partnership Agreement (including, without limitation, *Sections 5.2* and *5.3*). The General Partner shall conduct and manage the affairs of the Partnership in a prudent, businesslike, and lawful manner and shall devote such part of its time to the affairs of the Partnership as shall be deemed necessary and appropriate to pursue the business and carry out the purposes of the Partnership as contemplated in this Partnership Agreement. The General Partner shall use its best efforts and exercise good faith in all activities related to the business of the Partnership.

**Section 5.2 Restrictions on the General Partner's Authority.** Notwithstanding anything to the contrary contained in this Partnership Agreement, the General Partner shall not have the authority to take any of those actions specifically set forth below, unless the Consent of the Special Limited Partner is obtained:

- (a) Do any act that is in contravention of or inconsistent with this Partnership Agreement or any other agreement to which the Partnership is a party (including, without limitation, those relating to the Project Loans);
- (b) Do any act which would make it impossible to carry on the ordinary business of the Partnership;
- (c) Confess a judgment against the Partnership;
- (d) To cause the Partnership to possess Partnership Property or assign rights in specific Partnership Property for other than a Partnership purpose;
- (e) Except as provided herein, sell or otherwise transfer any interest in the Project Property (other than leases of residential units and the sale or disposition of personal property replaced with property of similar character and purpose in the ordinary course of the Partnership's business);



(f) Incur any liability on behalf of the Partnership in the ordinary course of the Partnership's business in excess of \$100,000 in the aggregate (or enter into any agreement resulting in any such liability being incurred), other than the Project Loans or loans required or permitted under *Section 5.4(i)* and *Section 5.4(l)* hereof, and those liabilities (or agreements relating thereto) which have theretofore been disclosed to and approved in writing by the Special Limited Partner;

(g) Except as disclosed in the Financial Forecasts, to cause the Partnership to acquire any interest in real property or acquire any item of personal property having a purchase price of more than \$100,000 in the aggregate;

(h) Refinance, prepay or modify any mortgage or long-term liability of the Partnership, including, without limitation, the First Mortgage Loan; *provided, however*, after the end of the Compliance Period, the General Partner may refinance the First Mortgage Loan without the Consent of the Special Limited Partner if the General Partner demonstrates to the reasonable satisfaction of the Limited Partner that (i) following the refinance, the Project will maintain a Debt Coverage Ratio of at least 1.15:1.00 based upon net operating income from the audited financial statements for the most recent Fiscal Year and the maximum mandatory debt service under the Project Loans on a pro forma basis, (ii) the maker of the new loan (the "New Loan") has determined that the New Loan will have a loan-to-value ratio of not more than 90%, (iii) the New Loan will have a term that does not exceed 40 years, (iv) the New Loan will have a fixed rate of interest (or an interest rate cap or swap agreement is purchased on terms acceptable to the Limited Partner), (v) amortization of principal and interest on the New Loan will be based on a schedule of not less than 20 or more than 40 years commencing after the end of the Compliance Period, (vi) the New Loan will be made by a bank, insurance company or other institutional lender which is not the General Partner or an Affiliate, (vii) the New Loan will not contain any "equity participation" features and will otherwise be on commercially reasonable terms, (viii) all other expenses associated with such refinancing will be paid from the proceeds of the refinancing, and (ix) unless the Partners mutually agree to a different application, any refinancing proceeds shall be applied in accordance with *Section 4.2* of the Partnership Agreement.

(i) Compromise any claim or liability in excess of \$100,000 owed by or to the Partnership;

(j) Make, amend or revoke any tax election, reservation, allocation or certification required of or permitted to be made by the Partnership under the Code or the Regulations, or the State Housing Finance Agency, including, without limitation, any election under Section 42 or Section 754 of the Code. In this regard, the General Partner shall make (and the Special Limited Partner Consents thereto) any elections required or any reasonable elections permitted under Section 42 of the Code requested in writing by the Special Limited Partner;

(k) Change any accounting method or practice of the Partnership;

(l) Take any action which would cause the termination of the Partnership for federal income tax purposes, the treatment of the Partnership as other than a partnership for federal income tax purposes, or the dissolution of the Partnership for state law purposes except as permitted in *Section 10.1*;

- (m) Construct any improvements on the Project Property other than those contemplated in the Plans and Specifications (or any modification thereof unless such modification is expressly approved in writing by the Special Limited Partner or conforms to the requirements of *Section 5.3(o)*);
- (n) Use or cause the Project Property to be used for any purpose other than as a low income housing development eligible for Tax Credits as contemplated under Section 42 of the Code or Historic Tax Credits as contemplated under Section 47 of the Code;
- (o) Except for the Project Loans, mortgage, pledge or encumber any interest in any Partnership Property, including, without limitation, the Project Property;
- (p) Loan any money on behalf of the Partnership or guarantee on behalf of the Partnership the indebtedness of any other Person;
- (q) Change the nature of the business or purpose of the Partnership;
- (r) Hire or retain any Person to manage the Project Property or the Partnership's business;
- (s) Admit any other Person as a Partner;
- (t) Perform any act subjecting the Limited Partner or the Special Limited Partner to liability as a general partner in any jurisdiction;
- (u) Deposit any Partnership funds in any bank, savings and loan or other financial institution whose accounts are not insured by the Federal Deposit Insurance Corporation; *provided, however,* for avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amount on deposit in any particular account are in excess of the Federal Deposit Insurance Corporation insurance limits;
- (v) Commingle any Partnership funds with the funds of (i) any other partnership or limited liability company in which the General Partner is a partner or member, as the case may be or (ii) the General Partner;
- (w) To cause the Partnership to execute or deliver any assignment for the benefit of creditors;
- (x) File a lawsuit on behalf of the Partnership (other than lease enforcement, collection, other routine legal actions in the ordinary course of business of the Partnership or a lawsuit against the Limited Partner);
- (y) To cause the Partnership to hire any employees for any purpose; or
- (z) To cause the Partnership to modify or amend any material term of the Management Agreement, Development Agreement or Construction Contract, or waive any rights of the Partnership thereunder.

### **Section 5.3 Representations, Warranties and Covenants of the General Partner**

As an inducement to the Limited Partner and the Special Limited Partner to enter into this Partnership Agreement and in addition to the representations, warranties and covenants set forth elsewhere in this Partnership Agreement, the General Partner hereby represents and warrants to the Limited Partner and the Special Limited Partner that the statements below are true as of closing, will be true on the due date for payment of each Installment and, except as otherwise stated below, at all times hereafter. The General Partner shall fully comply with and abide by all of the covenants set forth herein at all times throughout the term of the Partnership's existence.

(a) **Current Partnership Agreement**. The General Partner has previously provided a true, complete and current copy of the Partnership's Original Agreement, together with all amendments thereto, to the Special Limited Partner or its designees, which Original Agreement and amendments reflect all agreements among the Partners of the Partnership prior to its amendment hereby.

(b) **Due Authorizations, Execution and Delivery; Binding Effect**. The execution and delivery of this Partnership Agreement by the General Partner and the performance by the General Partner of the transactions contemplated hereby have been duly authorized by all requisite corporate, partnership or trust actions or proceedings and the consummation of any such transactions with or on behalf of the Partnership will not constitute a breach or violation of, or a default under, the organizational documents of the General Partner or any agreement by which the General Partner or any of its properties is bound, nor constitutes a violation of any law, administrative regulation or court decree. The General Partner is duly organized, validly existing and in good standing under the laws of the state of its formation with power to enter into this Partnership Agreement and to consummate the transactions contemplated hereby. This Partnership Agreement is binding upon and enforceable against the General Partner in accordance with its terms except to the extent that such enforceability may be limited by laws regarding bankruptcy, creditors' rights and general principles of equity. The General Partner, on behalf of the Partnership, is authorized to execute any and all loan agreements, notes, mortgages and security agreements in order to secure loans from any Project Lender and any and all other documents, including but not limited to the Project Documents, required by any Project Lender or any Governmental Agency in connection with each mortgage.

(c) **Valid Partnership; Power of Authority**. The Partnership is and will continue to be a valid limited partnership, duly organized under the laws of the State of Formation, and shall have and shall continue to have full power and authority to acquire the Land and to develop, rehabilitate, operate and maintain the Project Property in accordance with the terms of this Partnership Agreement, and shall have taken and shall continue to take all action under the laws of the State of Formation and any other applicable jurisdiction that is necessary to protect the limited liability of the Limited Partner and the Special Limited Partner and to enable the Partnership to engage in its business.

(d) **Required Consents**. The Partnership has obtained all consents required for the admission of the Limited Partner and the Special Limited Partner to the Partnership, including but not limited to, the consent of the holder(s) of the Project Loans, if necessary, and any required consents of applicable Authorities. No consent is required for the transfer of the Limited Partner's Partnership Interest to a Fund. Notwithstanding the immediately preceding sentence, each of the

Limited Partner and the Special Limited Partner agrees that it shall not transfer its Partnership Interest, or any portion of its Partnership Interest, to any of Wentwood Companies, Kay Realty, Hunt Companies, Alden Torch Financial, Affordable Housing Partners, Inc., Affordable Equity Partners, Inc., or Oceanside Capital Advisors (each a “**Prohibited Party**”), or, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Prohibited Party, to an affiliate of a Prohibited Party.

(e) **Ownership of General Partner.** Developer owns and shall continue to own at all times during the term of the Partnership all classes of interests of the General Partner. Vitus Group, LLC and Scott O. Langan (“**Langan**”) own and shall continue to own at all times during the term of the Partnership all classes of interests in the Developer. Stephen R. Whyte (“**Whyte**”) owns and shall continue to own at all times during the term of the Partnership all classes of interests in Vitus Group, LLC. Notwithstanding the foregoing, it shall not be a violation of the requirements of this Partnership Agreement if (i) Langan transfers all or a portion of his non-managing membership interest in the Developer to one or more trusts for the benefit of Langan, Langan’s spouse, descendants or ancestors as part of his estate planning and/or (ii) Whyte transfers all or a portion of his managing membership interest in the Developer to one or more trusts for the benefit of Whyte, Whyte’s spouse, descendants or ancestors as part of his estate planning, as long as within 90 days of such event a proposal is made to the Special Limited Partner setting forth the proposed new ownership of the Developer or its successor, and such proposal is acceptable to the Special Limited Partner in its sole but reasonable discretion.

(f) **No Violation.** The execution and delivery of the Project Documents, the incurrence of the obligations set forth in any of the Project Documents, and the consummation of the transactions contemplated by any of the Project Documents do not violate any provision of law, any order, judgment or decree of any court binding on the Partnership, the General Partner or any Affiliate(s) thereof, any provision of any indenture, agreement, or other instrument to which the Partnership or the General Partner is a party or by which the Partnership, the General Partner or the Project Property is affected, and are not in conflict with, and will not result in a breach of or constitute a default under any such indenture, agreement, or other instrument or result in creating or imposing any lien, charge, or encumbrance of any nature whatsoever upon the Project Property.

(g) **Compliance with Agreements.** To the best of its knowledge after due inquiry, at the time of the execution of this Partnership Agreement, the General Partner, unless otherwise consented to by the Limited Partner after written notice from the General Partner, either individually or on behalf of the Partnership, has fully complied with all applicable provisions and requirements of any and all contracts, options and other agreements with respect to the purchase of the Land and the buildings and other improvements located on the Land, and the development, financing and operation of the Project Property; it shall take, and/or cause the Partnership to take, all actions as shall be necessary to achieve and maintain continued compliance with the provisions, and fulfill all applicable requirements, of such agreements.

(h) **No Defaults.** The General Partner is not aware of (i) any default or any circumstances which, with the giving of notice or the passage of time, would constitute a default, under any agreement, contract, lease, Project Loan, or other commitment (unless otherwise consented to by the Limited Partner after written notice from the General Partner), or (ii) of any claim, demand, litigation, proceedings or governmental investigation pending or threatened

against the General Partner, the Project Property or the Partnership, or related to the business or assets of the General Partner, the Project Property or the Partnership, which claim, demand, litigation, proceeding or governmental investigation could result in any judgment, order, decree, or settlement which would materially adversely affect the business or assets of the General Partner, the Project Property or the Partnership.

(i) **Taxation and Limited Liability.** No event has occurred that has caused and the General Partner will not act in any manner that will cause (i) the Partnership to be treated for federal income tax purposes as an “association” taxable as a corporation, rather than as a partnership, or (ii) the Limited Partner to be liable for Partnership obligations in excess of its Capital Contributions, plus the limited dollar amount of any deficit restoration obligation agreed to by the Limited Partner pursuant to *Section 10.4*, plus any amount required to be repaid by the Limited Partner to the Partnership pursuant to *Section 6.1* hereof and the Act.

(j) **No Undisclosed Financial Responsibilities.** Neither the Partnership nor the General Partner, either individually or on behalf of the Partnership, has incurred any financial responsibility with respect to the Project Property prior to the date of execution of this Partnership Agreement, other than (i) that disclosed to the Special Limited Partner in writing prior to the date of this Partnership Agreement, or (ii) obligations which will be fully satisfied at or prior to the closing. As of the date hereof and hereafter continuously, unless the Special Limited Partner otherwise provides prior written consent or unless otherwise specifically provided for herein, the only indebtedness of the Partnership with respect to the Project Property is the Project Loans and, if any, Development Deficit Loans, Operating Deficit Loans and Loans permitted under *Section 2.6*. Without limiting the generality of the foregoing, neither the General Partner, any of its Affiliates, nor the Partnership, has entered, or shall enter, into any agreement or contract for any loans (other than the Project Loans) or for the payment of any Project Loan discounts, additional interest, yield maintenance or other interest charges or financing fees, or any agreement providing for the guarantee of payment of any such interest charges or financing fees relating to any Project Loan. The financial statements and other financial data delivered to the Limited Partner in connection with the Project Property and the General Partner, Developer and Guarantor are true, complete and accurate in all material respects. No adverse change has occurred in any such entity’s financial position since the date of the financial statements and financial data last delivered to the Limited Partner.

(k) **Nonrecourse; No Personal Liabilities for Loans.** Neither the Partnership nor any Partner has or will have direct or indirect personal liability as maker, guarantor, partner or otherwise with respect to the payment of principal or interest or any other sum due under the Project Loans, except during the construction period and except for those certain exceptions to nonrecourse liability set forth in the First Mortgage Loan Documents.

(l) **Partner or Affiliate Loans.** With the exception of Development Deficit Loans, loans made pursuant to *Section 2.6* and Operating Deficit Loans, neither the Partners nor any Affiliate of a Partner will be a lender to the Partnership unless, based upon the advice of tax counsel or adviser satisfactory to the Special Limited Partner, such loan will not likely adversely affect or cause a material re-allocation among the Partners of Tax Credits or Profits and Losses.

(m) **Aggregate Net Worth of Guarantor.** The Guarantor has and will at all times during the Compliance Period maintain an aggregate net worth (exclusive of their investment in the Partnership), computed on a market value basis, equal to \$5,000,000 (\$1,000,000 of which is held in liquid accounts).

(n) **Construction Contract.** The Construction Contract has been entered into between the Partnership and the General Contractor; no other consideration or fee shall be paid to the General Contractor in its capacity as the General Contractor for the Project Property other than the amounts set forth in the Construction Contract or as evidenced by change orders disclosed in writing to and Consented (unless consent is not required pursuant to (o) below) to by the Special Limited Partner (and approved by the Project Lenders as necessary); and all change orders to date have been paid in full. In addition, no consideration or fee shall be paid to the Developer or the General Partner by the General Contractor.

(o) **Construction Plans and Specifications.** The General Partner has sent (or as soon as available will send) to the Special Limited Partner or its designees the Plans and Specifications, if any, and all construction schedules, approved construction draws, certifications concerning occupancy, lien notices, project inspection reports, proposed changes and modifications to the Plans and Specifications, all documents pertaining to the Project Loans, and any other information which is relevant to the construction and development of the Project Property. No material change will be made in the Plans and Specifications for the Project without the Consent of the Special Limited Partner; provided, that changes in the Plans and Specifications, the Construction Contract (including change orders thereunder), or any other material contract relating to the development or financing of the Project which (1) do not affect the value or the use of the Project, or (2) do not result in an increase or decrease of more than 10% of the contingency in any one instance and 50% of the contingency in the aggregate between budget line items over the entire construction period, may be made without the Consent of the Special Limited Partner, but the General Partner shall provide the Special Limited Partner with notice thereof prior to making such change. Thereafter, any use of the hard cost contingency (either within the Construction Contract or held as an owner's contingency) requires the Consent of the Special Limited Partner.

(p) **Rehabilitation of Project Property.** The rehabilitation and development of the Project Property shall be undertaken and shall be completed in a timely and workmanlike manner, free from liens (not otherwise bonded over in a cumulative amount not to exceed \$100,000) and defects, in accordance with (i) all applicable requirements of the project loans and the Project Documents, (ii) all applicable requirements of all appropriate governmental entities, and (iii) the Plans and Specifications of the Project Property that have been or shall be hereafter approved by the Special Limited Partner and, if required, the Project Lenders and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the Consent of the Special Limited Partner as required pursuant to this Partnership Agreement and the Project Lenders, if required, and any applicable Authorities, if such approval shall be required; it shall promptly provide copies of all change orders to the Special Limited Partner.

(q) **No Defective Soils Conditions.** To the best of the General Partner's knowledge after due inquiry, there are no defects or conditions of the soil that would have an adverse effect upon the use, occupancy and operation of the Project Property. The soil condition of the Land is such that it will support all of the improvements to be located thereon for its foreseeable life,

without the need for unusual or new subsurface excavations, fill, footings, caissons or other installations. The improvements on the Land, as built, will be or are constructed in a manner compatible with the soil condition at the time of construction and all necessary excavations, fills, footings, caissons and other installations were then, have since been and will be provided.

(r) **Public Utilities.** All appropriate roadway and public utilities, including, without limitation, sanitary and storm sewers, water, telephone and electricity, are available to the Project Property, and all easements required in connection therewith have been obtained and filed of public record and the General Partner will use commercially reasonable efforts to keep all such utilities operating in a manner sufficient to service the Project Property and the residential units contained therein.

(s) **No Defects, Compliance.** Upon completion of the Project Property, there will be no physical or mechanical defects or deficiencies in the condition of the Project Property, including, but not limited to, the roofs, exterior walls or structural components of the Project Property and the heating, air conditioning, plumbing, ventilating, elevator, utility, sprinkler and other mechanical and electrical systems, apparatuses and appliances located in, or about, the Land which would materially and adversely affect the Project Property or any portion thereof. The Project Property is free from infestation by termites or other pests, insects, animals or other vermin and the General Partner will keep and maintain the Project Property in such condition. The Project Property conforms (or will timely conform) to all governmental regulations, including, without limitation, all zoning, building, health, fire and environmental rules, regulations ordinances or requirements or environmental laws, regulations or procedures applicable to the Project Property where the failure to conform would result in a material adverse effect. If at any time the Project benefits from or is otherwise subject to a HUD program, the General Partner shall not cause or permit to occur any circumstances that would (i) give rise to a “flag” affecting the Limited Partner or its Affiliates under HUD’s previous participation certification system, the effect of which would be to adversely impact the ability of the Limited Partner or its Affiliates from participation in HUD loan or subsidy programs; or (ii) result in a determination by HUD that the Project Property has failed to comply with HUD’s minimum standards for physical condition (which under current REAC practice, would mean a score of below 31). Furthermore, the General Partner shall not cause or permit to occur any circumstance that would cause the owner or operator of the Project to lose the benefit of an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA.

(t) **As-Built Survey.** Intentionally Deleted.

(u) **Title, Liens and Encumbrances.** The Partnership owns a fee simple interest in the Land and the buildings and improvements comprising the Project Property and all personal property used in connection therewith, free and clear of all liens and encumbrances other than mortgages and other security instruments securing any of the Project Loans listed as exceptions in the owner’s title insurance policy delivered to the Special Limited Partner on the date of its admission to the Partnership and those liens and encumbrances expressly agreed to in writing by the Special Limited Partner, including pursuant to *Section 5.3(p)*, if any. An owner’s title insurance policy issued by the Title Company or a financially responsible institution acceptable to the Special Limited Partner, in an amount equal to the permanent Project Loans plus the Capital Contribution of the Limited Partner, for the Project Property, in favor of the Partnership, will be issued at or

prior to the closing subject only to such easements, covenants, restrictions and such other standard exceptions as are normally included in owner's title insurance policies and which are Consented to in writing by the Special Limited Partner. The General Partner has not made any misrepresentation or failed to make any disclosure that will or could result in the Partnership lacking title insurance coverage based on imputation of knowledge of the General Partner to the Partnership. The General Partner will deliver the owner's title insurance policy to the Limited Partner within 30 days of the closing.

(v) **Zoning and Related Matters.** To the best of the General Partner's knowledge, the Project Property conforms (or will timely conform) in all material respects to all applicable laws, including, without limitation, all zoning, building, health, fire and environmental rules and regulations and there are no laws, planning rules, regulations, ordinances, requirements or environmental laws, regulations or procedures applicable to the Project Property that would inhibit or adversely affect the operation of the Project Property as a low income housing development.

(w) **Moratoria; Assessments; Dedications.** At the time of execution of this Partnership Agreement there is, and on the due date for payment of the Second Installment, Third Installment, Fourth Installment and Fifth Installment there will be, no reassessment (except for real estate property taxes), reclassification, rezoning, proceeding, ordinance or regulation (including amendments and modifications to any of the foregoing) pending or proposed to be imposed, by any Authority or any public or private utility having jurisdiction over the Land which would have a material, adverse effect upon the use or occupancy of the Project Property. At the time of execution of this Partnership Agreement, and on the due date for payment of the Second Installment, Third Installment, Fourth Installment and Fifth Installment, no special assessments have been levied against the Project Property or by an Authority upon the commencement or completion of any construction, alteration or rehabilitation on or of the Project Property or any portion thereof. Notwithstanding anything to the contrary herein, the General Partner will promptly notify the Special Limited Partner of any such actions, if and as they arise throughout the term of this Agreement. Except as previously disclosed in writing to and approved by the Special Limited Partner, the completion of the improvements, construction, alteration or rehabilitation on or to the Project Property or any portion thereof will not require the dedication of any portion of the Project Property by any Authority. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (w) as long as the Limited Partner continues to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II.**

(x) **Governmental Actions.** To the best of the General Partner's knowledge, there is no official action of any Authority, pending or threatened, which in any way would (i) have an adverse effect on the Partnership, the Project Property, the Limited Partner, the Tax Credits or the Historic Tax Credits; (ii) involve any intended public improvements which improvements may result in any charge in excess of \$10,000 being levied against the Land; or (iii) result in any special assessment, being levied against or assessed upon the Land or the Project Property. To the best of the General Partner's knowledge, there is no existing, proposed or contemplated, plan to widen, modify or realign any street or highway contiguous to the Land. The General Partner will promptly notify the Limited Partner of any such official actions or plans, if and as they arise. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (x) as long as the



Limited Partner continue to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II**.

(y) **Environmental Conditions**. To the best of the General Partner's knowledge, the Project Property is not in violation of any federal, state or local law, ordinance or regulation relating to any environmental conditions on, under or about the Project Property, including, but not limited to, soil and groundwater conditions or the presence of mold. To the best of the General Partner's knowledge after due inquiry, and except as disclosed in the Phase I Reports, no Hazardous Substance has been used, generated, manufactured, stored or disposed of on, under or about the Project Property, or transported to or from the Project Property.

(z) **Environmental Site Assessment**. In connection with the acquisition and development of the Project Property, the General Partner obtained the Phase I Reports as prudent and appropriate inquiry into the previous ownership and uses of the Project Property consistent with good commercial practice, and to the best of the General Partner's knowledge and consistent with good commercial practice, such inquiries are sufficient for the Partnership to successfully establish an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA. In addition, nothing has occurred at the Project Property or, to the best of the General Partner's knowledge, to the surrounding area, which would make the conclusions set forth in the Phase I Reports materially inaccurate and/or materially adversely impact the Project.

(aa) **CERCLA waivers, releases**. Neither the Partnership nor the General Partner, nor to the best of the General Partner's knowledge any predecessor in title of the Partnership, has given any waiver or release of liability pursuant to CERCLA or any other Environmental Law or any similar applicable state or local law to any person or entity in the chain of title of the Project Property.

(bb) **Management of Project Property**. The General Partner will not, and will cause the Management Agent not to, (1) cause or permit any waste or damage to the Project Property, or (2) allow any tenant to use a residential unit within the Project Property or any of the common areas in any manner which is unlawful, hazardous, unsanitary, noxious or offensive or which unreasonably interferes with the use of the Project Property by the other tenants.

(cc) **Full Disclosure Concerning the Project Property**. All material information concerning the Project Property known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, has been disclosed by the General Partner to the Special Limited Partner and there are no facts or information known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, which would make any of the facts or information submitted by the General Partner to the Special Limited Partner with respect to the Project Property inaccurate, incomplete or misleading in any material respect.

(dd) **Insurance**. The General Partner has caused and will cause the Partnership, the General Contractor, the Architect and the Management Agent to maintain the insurance set forth on **Appendix VI** hereof.

(ee) **Allocation of Tax Credits; Tax Credit Percentage.** The State Housing Finance Agency delivered a valid State Designation with respect to the Tax Credits for the Project Property to the Partnership on June 7, 2021. The Tax Credit percentages for the Tax Credits associated with the acquisition and the rehabilitation will be 4.00%.

(ff) **Qualification for LIHTC Units.** At all times following the completion of the contemplated improvements to the Project Property, the General Partner shall use its best efforts to operate the Project Property in order to qualify 100% of the LIHTC Units in the Project Property for the Tax Credit with 100% of the tenants of such LIHTC Units qualifying under the appropriate income and rent restrictions of Section 42 of the Code, as the same may be modified pursuant to the Restrictive Covenant.

(gg) **Applicable Income and Rent Restrictions.** The Project Property is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including, without limitation, the tenant income and rent restrictions, applicable to projects generating Tax Credits under Section 42 of the Code. The Partnership will comply with the so-called “40-60 Set-Aside Test” of Code Section 42(g)(1)(B).

(hh) **Projected Tax Credits and Historic Tax Credits; Financial Forecasts.** The Projected Tax Credits and Projected Historic Tax Credits that the General Partner has projected will be available to the Limited Partner are accurately set forth in **Appendix I**. The Projected Tax Credits are based upon the General Partner’s representation that the Project Property will have Qualified Occupancy. The General Partner further covenants that there is and at all times shall continue to be sufficient eligible basis (as defined in Section 42(d) of the Code) to provide the full amount of the Projected Tax Credits. The Financial Forecasts attached hereto as **Appendix II** are true, complete and accurate in all material respects. Except as permitted herein, there shall be no changes to the operating or construction budget of the Project which would impact the Financial Forecasts without the Consent of the Special Limited Partner. Without limiting the foregoing, (i) the Financial Forecasts accurately allocate the Development Costs between non-depreciable and depreciable costs, and (ii) no portion of the Incentive Management Fee or Developer Fee is allocable to the organization of the Partnership, to the sale of any interests in the Partnership, or to any permanent financing arrangements.

(ii) **No Tax-Exempt Use Property.** The General Partner will not take any action which would cause the Project Property to be treated as tax exempt use property within the meaning of Section 168(h) of the Code.

(jj) **No Abusive Tax Shelter.** The General Partner has not received notice from the IRS that it has considered the General Partner to be involved in any abusive tax shelter and is not aware of any facts, which if known to the IRS, would cause such notice to be issued.

(kk) **Bankruptcy.** No Bankruptcy, including, without limitation, attachments, execution proceedings, assignments for the benefit of creditors, insolvency, reorganization or other proceedings is pending or threatened against the Partnership or the General Partner. The General Partner will not permit such a Bankruptcy to occur.

(ll) **Commitments to Third Parties.** The General Partner is not presently under any commitment to any real estate broker, rental agent, finder, syndicator or other intermediary with respect to the Project or any portion thereof, except for arrangements disclosed in writing to the Special Limited Partner prior to the date hereof.

(mm) **Federal Subsidies.** The Project is federally subsidized as defined in Section 42(i)(2) of the Code.

(nn) **Deferral of Credit Period.** The General Partner shall cause the Partnership to make an election under Section 42(f)(1)(B) of the Code to defer the first year of the Credit Period to 2022.

(oo) **Grants.** The Partnership shall not accept any grants without the Consent of the Special Limited Partner.

(pp) **Fair Market Value.** The Project's fair market value, including the value of the tax benefits and favorable financing described in the Financial Forecasts, is reasonably expected to exceed all indebtedness secured by the Project Property at all times after the Project is Placed in Service.

(qq) **Restrictive Covenant.** The term of the Restrictive Covenant will not exceed 30 years. The Project shall be operated in accordance with, and residential units within the Project leased in compliance with, Section 42 of the Code and, on and after the effective date of the Restrictive Covenant, the Restrictive Covenant.

(rr) **Restrictions on Sale or Refinancing.** No restrictions on the sale or refinancing of the Project Property, other than restrictions that may be set forth in the Project Documents, exist as of the date hereof, and except as may be contained in the Restrictive Covenant, no such restrictions shall, at any time while the Limited Partner is a Limited Partner, be placed upon the sale or refinancing of the Project Property.

(ss) **Compliance with Federal Fair Housing Act.** At all times during the term of this Partnership Agreement, the Partnership shall comply with the provisions of the Federal Fair Housing Act, as amended, including, but not limited to, complying with all provisions thereof relating to housing for the elderly.

(tt) **Current Lease Terms.** All current leases (if any) for residential units in the Project Property are and all future leases will be for an initial term of at least one (1) year.

(uu) **Taxpayer Certifications.** On behalf of the Partnership, the General Partner will cause to be filed any and all certifications and other documents on a timely basis with the IRS, the State Housing Finance Agency and all other Authorities, as have been and may be required to support the full amount of Projected Tax Credits and Projected Historic Tax Credits.

(vv) **Payment Certificates.** The General Partner shall comply with all of the obligations and requirements contained in the Payment Certificates, including the obligation to obtain the Consent of the Special Limited Partner before accepting any proceeds of the Project Loans.

(ww) **Bonds.**

(1) Generally. The General Partner, with the Consent of the Special Limited Partner, shall take such actions as may be necessary (after giving effect to applicable provisions of the Development Agreement) to assure that the percentage of the aggregate basis of the Land and buildings (including site improvements) financed with an obligation the interest on which is exempt from tax under Section 103 of the Code and which is within the State of Ohio volume cap shall be not less than 50% as of Construction Completion and to assure that 50% or more of the aggregate basis of each of the buildings (including site improvements) at the Project and the Land attributable thereto are financed with an obligation the interest of which is exempt from tax under Section 103 of the Code and which is within the volume cap of the State of Ohio. The interest paid on the Bonds is excludable by the recipient thereof from Federal income taxation, and the General Partner has done and performed, or caused to be done and performed, all acts and things necessary or desirable to assure that such interest is exempt; and neither the General Partner nor any other party has permitted at any time or times any of the proceeds of the Bonds or any other funds to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Bonds to be an arbitrage bond as defined in Section 148(a) of the Code. Notwithstanding anything else in this Partnership Agreement to the contrary, if the Developer fails to complete construction of the Project at a total depreciable cost such that the Project does not satisfy the “50% test” under Code Section 42(h)(4)(B), then the General Partner shall cause the Developer Fee to be reduced on a dollar for dollar basis to the extent the payment of such Developer Fee would cause less than 51% of the aggregate cost basis of the construction and the basis of the land on which the construction is located, as such terms are defined in Code Section 42(h)(4)(B), to be financed by the Bonds.

(2) Tax Exempt Financing. The General Partner will not take, or permit to be taken on its behalf, any action that would cause the interest payable on the Bonds to be included in gross income for federal income tax purposes, and will take such action as may be necessary in the opinion of bond counsel to the Bond Issuer to continue such exclusion from gross income including, without limitation, the following:

(A) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, without limitation, the filing of all reports and certifications required by the Restrictive Covenant);

(B) the timely payment to the United States of America of any rebate amount required to be paid by the Bond Issuer or the Partnership pursuant to Section 148(f) of the Code and the Treasury Regulations under Section 148; and

(C) the use of not less than 95% of the net proceeds of the Bonds (within the meaning of Section 142(a) of the Code) for costs to provide a “qualified residential rental project” within the meaning of Section 142(d) of the Code that are properly chargeable to the Partnership’s capital account.

(3) Bonds not Federally Guaranteed. The Bonds are not “federally guaranteed” as defined in Section 149(b) of the Code.

(4) 120% Test. In accordance with Section 147(b) of the Code, the weighted average maturity of the Bonds does not exceed 120% of the weighted average reasonably expected economic life of the facilities (comprising the Project Property) financed with the net proceeds of the Bonds, determined as the later of the date the Bonds are issued or the date the facilities are expected to be Placed in Service.

(5) No Related Purchasers. Neither the Partnership nor any General Partner, nor any related person thereto (within the meaning of Section 147(a)(2) of the Code) will purchase the Bonds pursuant to any arrangement, formal or informal.

(6) Section 149 Certificate. The information furnished by the Partnership and used by the Bond Issuer preparing the certificate pursuant to Section 149(e) of the Code is accurate and complete as of the date of issuance of the Bonds.

(7) Commencement Date. The acquisition, rehabilitation and equipping of the Project Property were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60<sup>th</sup> day preceding the August 19, 2020 official action of the Bond Issuer with respect to the Project Property, and no obligation for which reimbursement will be sought from proceeds of the Bonds relating to the acquisition, construction or equipping of the Project Property was paid or incurred prior to 60 days prior to such date.

(8) Repayment of the Bonds. The Bonds shall not be repaid prior to placement in service of the Project.

(xx) Depreciation. Unless the Limited Partner shall specify a different permissible treatment in writing, and except to the extent otherwise required by Section 168(g)(1)(B) of the Code, the Partnership, in accordance with *Section 7.2*, shall depreciate substantially all of its residential rental property, site improvements and personal property costs, respectively, over thirty (30) years, fifteen (15) years and five (5) years for federal income tax purposes. Subject to the provisions of *Section 5.4*, all other elections required or permitted to be made by the Partnership under the Code shall be made by the General Partner with the Consent of the Limited Partner. In addition, unless directed otherwise in writing by the Special Limited Partner, the General Partner shall cause the Partnership to make an election under Section 168(k) of the Code to opt-out of any bonus depreciation otherwise allowable with respect to its site work and personal property improvements. The General Partner shall cooperate with the Special Limited Partner to provide documentation necessary to complete the Cost Segregation Study and deliver the Cost Segregation Study by January 31<sup>st</sup> in the year following when the Project is Placed in Service.

(yy) Designated Nationals. The General Partner, the Developer, the Guarantor and any of their respective Affiliates that are under contract with respect to the Project (the “Sponsor Entities”): (i) are in compliance with all applicable anti-money laundering laws, including, without limitation, the USA Patriot Act, and the laws administered by the United States Treasury Department’s Office of Foreign Assets Control (“OFAC”), including, without limitation, Executive Order 13224, (ii) are not, nor is any Affiliate of the Sponsor Entities, on the Specially

Designated Nationals and Blocked Persons List maintained by OFAC, and (iii) are not otherwise identified by a government entity or legal authority as a person with whom a U.S. Person (as defined below) is prohibited from transacting business. As used herein, “U.S. Person” shall mean any United States citizen, any permanent resident alien, any entity organized under the laws of the United States (including foreign branches), or any person in the United States.

(zz) **Survival of Representations and Warranties.** All of the representations, warranties and covenants contained herein shall be deemed to be re-made as of the date of each Capital Contribution made by the Limited Partner and shall survive the funding date of each such Capital Contribution. The General Partner shall indemnify and hold harmless the Limited Partner against a breach of any of the foregoing representations, warranties and covenants and any damage, loss or claim caused thereby, including reasonable attorneys’ fees and costs and expenses of litigation and collection.

(aaa) **Election under Section 163(j)(7)(B) of the Code.** The General Partner agrees that, unless directed otherwise by the Limited Partner, the Partnership shall make the election under Section 163(j)(7)(B) of the Code to be an Electing Real Property Trade or Business (as such term is defined in Section 163(j)(7)(B) of the Code).

(bbb) **Section 266 Election.** The General Partner may make an election pursuant to Section 266 of the Code to capitalize interest on the Bond Loan and the Permanent Loan, subject to the Consent of the Limited Partner which shall not be unreasonably withheld.

(ccc) **Scattered Site** The Project Property is a scattered site Project within the meaning of Section 42(g)(7) of the Code, as the buildings which comprise the Project Property are separated by several city blocks. All units in the Project Property will be both income and rent restricted as required by Section 42(g) of the Code throughout the Compliance Period in order to insure the Project Property’s qualification as a single project for Tax Credit purposes.

(zz) **Historic Tax Credits.**

(1) Each of the buildings comprising the Project will be a “certified historic structure” within the meaning of Section 47 of the Code, and the Plans and Specifications have been approved by NPS as being consistent with the historic character of the district in which each building is located.

(2) The rehabilitation of the buildings comprising the Project has been (or will be) completed in compliance with the Part 2 Approval and will continue to comply with all conditions to the Part 2 Approval.

(3) The General Partner will take all commercially reasonable actions necessary in order to (a) rehabilitate the buildings comprising the Project in accordance with the Secretary of the Interior’s “Standards for Rehabilitation” and the terms of the Historic Tax Credit Approvals; (b) ensure that the rehabilitation qualifies for the Historic Tax Credits and that the Part 3 Approval is timely and unconditionally obtained; (c) avoid recapture of the Historic Tax Credits or the imposition of penalties or

interest for failure to comply with the requirements of the Code or any other applicable laws relating to the Historic Tax Credits; (d) ensure that no lease of any portion of the buildings comprising the Project will be entered into if such lease would cause any portion of the buildings comprising the Project to be treated as tax-exempt use property under the Code; and (e) achieve the Historic Tax Credit Certification Date.

(4) The Qualified Rehabilitation Expenditures incurred during the 24-month period ending on the date that the buildings comprising the Project are placed in service (the “Measuring Period”) are expected to exceed the greater of (i) \$5,000 or (ii) the adjusted basis (within the meaning of Section 47(c)(1)(C)(i) of the Code) of the buildings and their structural components as of the first day of the Measuring Period.

(5) Substantially all of the expenditures included in the calculation of the Qualified Rehabilitation Expenditures are expected to be properly chargeable to a capital account for residential real property (or an addition or improvement thereto) for which depreciation is allowable under Section 168 of the Code.

(6) Neither the Partnership nor any Affiliate has used for personal or business purposes or placed in service any portion of any of the rehabilitation improvements to the Project on or prior to the date of this Agreement.

(7) As of the date of this Agreement, any rehabilitation improvements undertaken at the buildings comprising the Project were not in a condition or state of readiness for their operation or occupancy as residential space; without limiting the generality of the foregoing, as of the date of this Agreement, (i) the buildings comprising the Project were not placed in service with respect to the rehabilitation improvements, and (ii) the buildings comprising the Project had not received a certificate of occupancy permitting the use and operation of such improvements for their intended purpose.

(8) The buildings comprising the Project were placed in service at least once by a prior owner before the beginning of the rehabilitation of the Project by the Partnership.

(9) The Qualified Rehabilitation Expenditures that form or will form the basis for the Historic Tax Credits do not or will not include (i) any expenditure with respect which a method other than the straight-line method of depreciation over a recovery period determined under Section 168(c) or (g) of the Code (as modified by Section 251(d)(4) of the Tax Reform Act of 1986) will be used, (ii) the cost of acquiring the buildings comprising the Project, or (iii) the cost of any enlargement of the buildings, excluding any increase in floor space resulting solely from interior remodeling.

(10) The Project's Eligible Basis shall be reduced by the amount of Historic Tax Credits.

**Section 5.4** **Specific Obligations of the General Partner.** Except as otherwise set forth in this Agreement, the General Partner shall, on behalf of and in the name of the Partnership and in addition to any obligations placed upon it elsewhere in this Partnership Agreement, have the following specific obligations:

(a) **Construction Draws.** All Capital Contribution installments made through Construction Completion shall be funded on a monthly draw basis. Concurrently with the date a construction draw request is made to a lender, or when a request for payment of an equity installment of the Limited Partner's Capital Contribution is made during the construction period, the General Partner shall furnish to the Special Limited Partner a copy of any such documents submitted to the lender as part of a construction draw and copies of the following documents:

- (1) a completed hard cost requisition form in the form of standard industry AIA documents G702 and G703, or other pre-approved forms, executed by the General Partner and containing a separate breakdown of soft costs and invoices attached to such form;
- (2) sworn statements of the General Contractor, and unconditional waivers of any lien (subject only to payment for the work set forth therein) covering all work in excess of \$50,000, together with such invoices, contracts or other supporting data as the Special Limited Partner may require to evidence that all costs for which disbursement is sought have been incurred;
- (3) copies of any change orders, whether proposed or executed, which have not been previously furnished to the Special Limited Partner;
- (4) a title certificate date down endorsement or updated title search dated within 15 days of the draw request, showing no new liens or exceptions (other than those approved by the Special Limited Partner or bonded pursuant to Section 5.3(p)) herein), dated as of the date of the construction draw;
- (5) an updated detail of the sources and uses, acceptable in form to the Special Limited Partner and containing information on both the total project and the actual draw requests; and
- (6) receipt of all open items identified on **Appendix IX**, if any, on or before such times as described in **Appendix IX**.

In connection with the construction draws described in this *Section 5.4(a)*, which include a request for the payment of an Installment of the Limited Partner's Capital Contribution, the Special Limited Partner will select an inspecting representative for the Project to perform inspections for the sole benefit of the Limited Partner (the "Inspecting SLP Representative"). The Inspecting SLP Representative shall perform a site inspection for the funding of the Second Installment and Third Installment and no less than twice during the initial six-month period of construction. The Inspecting SLP Representative will be



invited to all monthly construction progress meetings with the First Mortgage Lender. The Limited Partner and the Special Limited Partner do not warrant or otherwise endorse the findings of the Inspecting SLP Representative.

(b) **Securities Law Matters.** To the extent required, the General Partner shall prepare and file all appropriate reports for the Partnership with the Securities and Exchange Commission and state securities administrators.

(c) **Limited Partnership Status.** The General Partner shall (i) file such certificates and do such other acts as may be required to qualify and maintain the Partnership as a limited partnership under the Act and to qualify the Partnership to transact business in all such jurisdictions as may be required under applicable provisions of law and (ii) take or cause the Partnership to take all reasonable steps deemed necessary by counsel to the Partnership to assure that the Partnership is at all times classified as a partnership for federal income tax purposes.

(d) **Partnership Representative.** The General Partner shall constitute the “partnership representative” (the “Partnership Representative”) for each taxable year of the Partnership under the Revised Partnership Audit Procedures. The Partners have designated Roger Heim to serve as the sole individual through whom the Partnership Representative will act for each taxable year of the Partnership as required by Treas. Reg. §301.6223-1 (the “Designated Individual”). The Designated Individual, pursuant to the acknowledgement attached hereto as Appendix XII, hereby agrees to be bound by this *Section 5.4(d)*. If the Designated Individual resigns or is otherwise unsuitable (in the sole and absolute judgement of the Special Limited Partner) to act as the Designated Individual for a taxable year or years (including, without limitation, by reason of death, incapacity, or change of employment), then, to the extent permitted by law, (a) on behalf of the Partnership, the Partnership Representative, in consultation with and with the Consent of the Special Limited Partner, shall nominate an eligible individual to serve as the Designated Individual for such taxable year or years, and (b) the Partnership will take all necessary and appropriate steps to replace such Designated Individual for such taxable year with the Designated Individual nominated under the preceding clause (a). Notwithstanding the foregoing, the Designated Individual shall resign upon the request of the Partnership Representative or if the Designated Individual (i) leaves the employment of the General Partner or the General Partner’s Affiliate (ii) becomes employed by the IRS or (iii) is imprisoned. Any individual designated as the Designated Individual shall act diligently, promptly, and in good faith to perform its duties hereunder, including such actions as may be necessary to collect any data that it needs to minimize the Partnership and any Partners’ tax liability in accordance with the Revised Partnership Audit Procedures, which may include the filing of amended returns or, with the Consent of the Special Limited Partner, making Administrative Adjustment Requests, where appropriate. In addition, in the event of any Final Partnership Adjustment occurring under the procedures of the Revised Partnership Audit Procedures, unless the Consent of the Special Limited Partner is obtained for doing otherwise, the Partnership shall timely elect to utilize the alternative procedure described in Section 6226 of the Code (as modified by the 2015 Act), and the Partnership Representative shall provide the IRS and each affected Partner with such information as required by such Section 6226 and any Treasury Regulations promulgated thereunder. Each Partner agrees to cooperate with the Partnership in utilizing the procedures under Section 6226 of the Code whether or not such person is a Partner at the time of a Final Partnership Adjustment. The General Partner’s designation as the Partnership Representative shall include the General Partner serving in such capacity after the

termination of the Partnership with respect to IRS audits and proceedings. The Partnership Representative and Designated Individual shall comply with any reasonable request given by the Special Limited Partner at any time with regard to making an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions and elections on behalf of the Partnership, or the Limited Partner for any taxable year and shall not make an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions or elections on behalf of the Partnership, or the Limited Partner for any taxable year without obtaining the Special Limited Partner's prior written Consent. Notwithstanding anything to the contrary contained herein, neither the General Partner, in its capacity as the Partnership Representative, nor the Designated Individual shall take any of the following actions, without first obtaining the Consent of the Special Limited Partner:

- (1) Extend the statute of limitations for assessing or computing any tax liability against the Partnership (or the amount or character of any Partnership tax item);
- (2) Settle any audit with the IRS concerning the adjustment or readjustment of any Partnership tax item; provided, however, if the General Partner is willing to settle an audit but the Limited Partner refuses to consent to such settlement, then the Special Limited Partner shall be responsible for any additional penalties, interest or increased settlement amount payable to the IRS and incurred as a direct result of the Limited Partner's refusal to consent to the General Partner's earlier request for settlement;
- (3) File a request for an administrative adjustment with the IRS at any time or file a petition for judicial review with respect to any IRS adjustment;
- (4) Initiate or settle any judicial review or action concerning the amount or character of any Partnership tax item;
- (5) Intervene in any action brought by any other Partner for judicial review of a final adjustment of any Partnership tax item;
- (6) Elect any depreciation schedule other than 30 years for the buildings comprising the Project; or
- (7) Take any other action that would have the effect of finally resolving a tax matter affecting the rights of the Partnership and its Partners.

The General Partner and Designated Individual shall keep the Special Limited Partner advised of any dispute the Partnership may have with any federal, state or local taxing authority and shall afford the Special Limited Partner the right to participate directly in negotiations with any such taxing authority in an effort to resolve any such dispute.

The Partnership Representative and Designated Individual shall obtain the Consent of the Special Limited Partner before taking any of the actions specified in this *Section 5.4(d)*, regardless of whether the Partnership has been dissolved or any Limited Partner has withdrawn from the Partnership, voluntarily or involuntarily, if the result of such actions would adversely affect the Limited Partner.

Notwithstanding anything to the contrary herein: (i) upon the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement or upon the removal of the General Partner for any reason under *Section 9.6* of this Partnership Agreement, the Limited Partner may replace the Partnership Representative or Designated Individual, (ii) the Partnership Representative and Designated Individual shall have a fiduciary responsibility to protect the interests of the Limited Partner, (iii) prior to appointing any individual to serve in the capacity of Partnership Representative or Designated Individual, that individual shall acknowledge and consent in writing to comply with the provisions of this *Section 5.4(d)*, and (iv) the General Partner shall indemnify, defend and hold the Limited Partner harmless from any loss, cost or expense incurred by the Limited Partner as a result of the failure of the Partnership Representative or Designated Individual to comply with the terms of this *Section 5.4(d)*.

The provisions of this *Section 5.4(d)* and each Partner's obligations under this *Section 5.4(d)* shall survive the termination and/or liquidation of the Partnership and/or the transfer or liquidation of such Partner's interest in the *Partnership*.

(e) **Governmental Filings.** The General Partner shall prepare, sign and submit to the Secretary of the Treasury, the applicable state housing agency and any other governmental authority having jurisdiction over the Project Property, on a timely basis, any and all annual reports, information returns and other certifications and information required by any such governmental agency. The General Partner shall comply with all other applicable requirements of any federal, state or local agency having jurisdiction over the Project Property, including, without limitation, any requirements of any such governmental agency with respect to the funding and maintenance of any operating or capital improvement reserves for the Project Property.

(f) **Bank Accounts.** The General Partner shall establish in the name and on behalf of the Partnership such bank accounts as shall be required to facilitate the operation of the Partnership's business. The Partnership's funds shall not be commingled with any other funds of the General Partner or any of its Affiliates, including without limitation, any other partnership or limited liability company in which the General Partner is a general partner or managing member. Funds of the Partnership held in bank accounts shall be deposited in one or more accounts maintained in FDIC insured banking institutions approved by the Special Limited Partner; *provided, however*, for the avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amounts on deposit in any particular account are in excess of Federal Deposit Insurance Corporation insurance limits. Promptly upon the request of the Special Limited Partner, the General Partner shall obtain and deliver to the Special Limited Partner full, complete and accurate statements of the amount and status of all Partnership bank accounts and all withdrawals therefrom and deposits thereto.

(g) **Completion Guaranty.**

(1) The General Partner hereby guarantees (and Guarantor, pursuant to the Guaranty Agreement absolutely and unconditionally guarantees) to the Partnership, the Limited Partner and the Special Limited Partner that (a) the Project Property will be constructed in a good and workmanlike manner free and clear of all mechanics' and similar liens not otherwise bonded over in a cumulative amount not to exceed \$100,000, in accordance with the Plans and Specifications and in accordance with the terms, conditions

and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property on or before the Construction Completion Date and (b) the payment of all development costs and fees (including if not deferred, the Developer Fee) as well as any Operating Deficits attributable to owning and operating the Partnership and the Project Property until achievement of Stabilized Operations plus the initial funding of the Operating Reserve, the Replacement Reserve and the HUD Working Capital Reserve required herein (collectively referred to herein as “Development Costs”), which may be paid through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonably determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full from Cash Flow prior to maturity of the Deferred Development Fee Note. The obligations of the General Partner under the foregoing sentence include, without limitation, providing all funds required of the Partnership to achieve Construction Completion of the Project Property (to the extent not then available under *Section 4.1* hereof or from the Project Loans or Capital Contributions), including, without limitation, cash equity, and to pay any unanticipated or additional development or construction costs, on and off-site escrows, taxes, insurance premiums, and interest. Such costs will also include a ratable portion of the annual amount of seasonal and/or periodic expenses, including but not limited to utilities, maintenance expenses and real estate taxes, which might reasonably be expected to be incurred on an unequal basis during a full annual period of operation. The repayment of any borrowings arranged by the General Partner to fund its obligations under this *Section 5.4(g)* shall be the sole obligation of the General Partner. Up to \$4,044,882 of payments made by the General Partner under this *Section 5.4(g)* shall be treated as non-interest bearing loans (the “Development Deficit Loans”) and shall be repaid in accordance with *Section 4.1* and *Section 4.2*. Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under this *Section 5.4(g)(1)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(2) In the event that the General Partner (and the Guarantor, pursuant to the Guaranty Agreement) fails to pay Development Costs as required under this *Section 5.4(g)*, an amount not in excess of the total of any remaining unpaid Limited Partner Capital Contribution installments may, in the discretion of the Special Limited Partner, be applied by the Partnership to meet such obligations of the General Partner. Any such direction and application of funds otherwise payable pursuant to *Section 2.2* hereof shall constitute reductions in amounts owed pursuant to *Section 2.2*, and the Limited Partner’s obligation to make such installment payments pursuant to *Section 2.2*. Any unpaid Limited Partner Capital Contribution applied by the Partnership to meet the General Partner’s obligations shall be deemed to have been paid to the General Partner and subsequently paid by the General Partner in satisfaction of its obligation hereunder. The obligations of the General Partner pursuant to *Section 5.4(g)* shall be satisfied to the extent of the funds applied.

(h) **Operating Reserve, Replacement Reserve and HUD Working Capital Reserve.**

(1) **Operating Reserve.** The General Partner shall establish and fund (and the Guarantor, pursuant to the Guaranty Agreement, absolutely and unconditionally

guarantees) the Operating Reserve in the Operating Reserve Amount with proceeds from the Fifth Installment and other available Project funds. The Operating Reserve shall be held in the Operating Reserve Account at a financial institution selected by the Special Limited Partner, which account shall be maintained during the Compliance Period and may be released in accordance with this *Section 5.4(h)(1)*. The Operating Reserve shall be used to fund operating and debt service deficits and withdrawals shall require the signature of the General Partner and the Consent of the Special Limited Partner for withdrawals (which shall not be unreasonably withheld and shall be deemed given if the Special Limited Partner has not responded within 10 Business Days). Upon exhaustion of the Operating Reserve Account, continuing shortfalls shall be funded from the Operating Deficit Guaranty described below in *Section 5.4(i)*. The Operating Reserve will be held by the Partnership through the end of the Compliance Period. Funds remaining in the Operating Reserve at the end of the Compliance Period will be released and distributed in accordance with *Section 4.1(a)*.

(2) Replacement Reserve. The Replacement Reserve shall be maintained by the Partnership in the Replacement Reserve Account, which Account shall be maintained during the Compliance Period. The Replacement Reserve shall be utilized to pay for the acquisition or replacement of capital improvements or replacements and the cost of repairs to property, and shall require the signature of the General Partner and the approval of the Special Limited Partner for withdrawals for items that are not contained in the approved annual budget and for items not listed in **Appendix VII** hereof (“Ineligible Replacement Items”). Notwithstanding anything contained herein to the contrary, if the First Mortgage Lender controls the Replacement Reserve, the Special Limited Partner shall be notified of any withdrawal, but the Special Limited Partner’s Consent shall not be required for withdrawals from the Replacement Reserve that have been approved by the First Mortgage Lender. In those cases where the Special Limited Partner’s Consent from the Replacement Reserve Account is applicable, such Consent shall not unreasonably be withheld, and shall be deemed given if the Special Limited Partner has not responded within ten (10) Business Days.

(3) HUD Working Capital Reserve. The General Partner shall cause the Partnership to establish and fund the HUD Working Capital Reserve in the amount of \$243,580 which will be funded with proceeds from the First Installment and other available Project funds into the HUD working capital reserve held by the First Mortgage Lender (the “HUD Working Capital Reserve”). The HUD Working Capital Reserve shall be used for the purposes described in the First Mortgage Loan Documents. The HUD Working Capital Reserve shall be released by the First Mortgage Lender to the Partnership upon Final Endorsement, or such later time as required by the First Mortgage Loan Documents, and any funds remaining in the HUD Working Capital Reserve shall be used by the Partnership to first pay Developer Fee, and if any proceeds are available paying Developer Fee, such proceeds shall be distributed in accordance with *Section 4.1* hereof.

(i) **Operating Deficit Guaranty**. The General Partner is obligated promptly upon the reduction of the Operating Reserve Account to zero to provide, without limitation in amount or duration, funds to the Partnership for Operating Deficits. The Guarantor, pursuant to the Guaranty Agreement, jointly and severally with the General Partner, are obligated promptly upon the

reduction of the Operating Reserve Account to zero to provide funds to the Partnership for Operating Deficits except that the Guarantor shall not be obligated to make Operating Deficit Loans under this *Section 5.4(i)* to the extent that the outstanding principal amount of such Operating Deficit Loans exceeds \$638,300 or the Operating Deficit Guaranty Period has expired. Repayment of any letters of credit or other borrowings arranged by the General Partner and/or Guarantor in furtherance of its obligations under this *Section 5.4(i)* shall be the sole obligation of the General Partner and/or Guarantor. Funds made available by the General Partner and/or Guarantor pursuant to this *Section 5.4(i)* and/or the Guaranty Agreement shall be treated as non-interest bearing loans to the Partnership repayable as provided in *Section 4.1* and *Section 4.2* (“Operating Deficit Loans”). Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under this *Section 5.4(i)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(j) **Qualified Occupancy.** The Project Property shall achieve Qualified Occupancy on or before the Qualified Occupancy Date.

(k) **Cooperation with Asset Manager.** The General Partner shall cooperate and shall cause the Management Agent to cooperate fully with the Asset Manager so that the Asset Manager may carry out its duties and obligations.

(l) **Permanent Loan Shortfall Guaranty.** The General Partner has or will obtain on behalf of the Partnership the First Mortgage Loan, as more particularly described in Appendix IV. The General Partner shall be obligated to provide funds to the Partnership in the event that the actual proceeds of the First Mortgage Loan or any other loan source are less than the anticipated amount of the First Mortgage Loan or any other such loan or loan proceeds as set forth in the Financial Forecast (a “Permanent Loan Shortfall”). The Limited Partner shall permit the deferral of additional Developer Fee (provided in the Limited Partner’s reasonable discretion, the Financial Forecasts demonstrate such deferred fee can be paid in full from Cash Flow prior to the expiration of the Compliance Period) to initially fund the Permanent Loan Shortfall. Funds made available pursuant to this *Section 5.4(l)* shall be evidenced by a note (the “Permanent Loan Shortfall Note”) with terms no less favorable than the terms of the First Mortgage Loan or such other loan (as determined by the Special Limited Partner) and shall be repaid as provided in *Section 4.1* and *Section 4.2*. The Permanent Loan Shortfall Note shall be unsecured.

(m) **Syndication and Permanent Financing.** The General Partner shall be and has been responsible for procuring acceptable permanent financing for the Project and for all duties relating to the syndication of the Partnership with the Limited Partner and the Special Limited Partner.

(n) **Special Operating Obligation for Loss or Reduction of HAP Contract.** If, in any year during the Compliance Period, the HAP Contract is not funded or is only partially funded, then the General Partner and the Guarantor, pursuant to the Guaranty Agreement, are obligated to pay to the Partnership through the end of the Compliance Period, an amount equal to the difference between (i) the actual rent collected, and (ii) the amount of rent that would have been collected under the fully funded HAP Contract, increased annually by 2% through the remainder of the

Compliance Period. The General Partner and the Guarantor shall not be required to pay any amount under this provision that would be more than necessary to avoid an Operating Deficit that would cause the Project to operate below a 1.0 to 1.0 Debt Coverage Ratio. Any amount paid under this provision shall constitute an Operating Deficit Loan.

(o) **Tax Exemption Agreement and PILOT Agreements.** The General Partner shall cause the Partnership to comply with the terms of the Tax Exemption Agreement to ensure the full exemption from real property taxation commences in 2022 and remains in place for a period of fifteen (15) years. The General Partner shall cause the Partnership to comply with the terms of the PILOT Agreements as required by the Tax Exemption Agreement.

**Section 5.5 Fees for Services Rendered.** The Partnership shall pay the following described fees to the Persons that are Affiliates of one or more Partners indicated below:

(a) **Developer Fee.** As provided in the Development Agreement, the Partnership shall pay the Developer Fee to the Developer for the services and obligations described in the Development Agreement.

(b) **Incentive Management Fee.** The Partnership shall pay to the General Partner the Incentive Management Fee in the amount and priority specified in *Section 4.1* and as further provided in the Incentive Management Agreement.

(c) **Incentive Leasing Fee.** The Partnership shall pay the General Partner an Incentive Leasing Fee in the amount and in the priority specified in *Section 4.1* until the Project has achieved Stabilized Operations, as further provided in the Incentive Leasing Agreement.

(d) **Asset Management Fee.** The Asset Management Fee shall be paid annually by the Partnership to the Asset Manager in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided in the Asset Management Services Agreement. The Asset Manager shall not incur any liability to the General Partner or the Partnership as a result of the Asset Manager's performance of or failure to perform its asset management services. The Asset Manager owes no duty to the General Partner or the Partnership and may be terminated by the Limited Partner only.

(e) **Partnership Management Fee.** The Partnership shall pay to the General Partner the Partnership Management Fee in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided the Partnership Management Agreement.

The Development Agreement, the Incentive Management Agreement, the Partnership Management Agreement and any other agreement entered into by the Partnership, the General Partner or any Affiliate thereof shall specifically provide that such agreement shall be terminable at the election of the Special Limited Partner if the General Partner is removed pursuant to *Section 9.6*.

None of the payments or reimbursements to any of the Persons indicated above shall be considered a distribution of Cash Flow to any Partner and, except as otherwise specifically provided herein, the General Partner may make any such reimbursement or payment prior to any distribution of any Cash Flow to the Partners.

**Section 5.6 Reimbursement of Expenses.** The Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the formation and organization of the Partnership as and to the extent provided in the Financial Forecasts. In addition, except as otherwise provided herein, the Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the operation of the Partnership's business, including, but not limited to, reasonable costs and expenses incurred by any such Partner in connection with the exercise of any consent hereunder.

**Section 5.7 Outside Ventures of Partners.** Any Partner may engage in or possess an interest in any other business venture of any type or description, independently or with others (including, without limitation, any venture which may be competitive with the business being conducted by the Partnership) and neither the Partnership, nor any Partner will, by virtue of this Partnership Agreement, have any right, title or interest in or to such outside ventures or the income or other benefits derived therefrom.

**Section 5.8 Dealing With Affiliates.** The General Partner may employ or retain in any capacity any Partner or Affiliate of any Partner so long as the terms upon which such Partner or such Affiliate is employed or retained are commercially reasonable under the circumstances and comparable to those terms which could be obtained from an independent person for comparable services in the area where the Project is located or the Partnership has its principal office.

**Section 5.9 Indemnification of Partnership, Limited Partner and Special Limited Partner.**

(a) The General Partner hereby agrees to defend, indemnify and hold harmless the Partnership, the Limited Partner and the Special Limited Partner and their Affiliates and successors, from and against any loss, claims, demands, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees or damage (including foreseen and unforeseen damage and consequential damages) arising directly or indirectly out of the presence on, under or about the Project Property of any Hazardous Substance, or the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Project Property.

(b) The General Partner shall indemnify, defend and hold harmless the Limited Partner and the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part, out of a breach of any or all of the representations, warranties and covenants made by the General Partner contained in this Partnership Agreement, including, without limitation, those contained in *Section 5.3* hereof. In addition to the foregoing indemnification, the Limited Partner and/or the Special Limited Partner may pursue any other available legal or equitable remedy against the General Partner with respect to the General Partner's breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Limited Partner's deferral of the payments of its Capital Contributions pursuant to *Section 2.2*.



(c) The General Partner shall indemnify, defend and hold harmless the Limited Partner, the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part from any prior letters of intent or equity proposals from other potential tax credit investors that may exist.

(d) The General Partner's obligations described in this *Section 5.9* will survive the termination and/or liquidation of the Partnership provided the loss, claims, demands, liabilities, lawsuits or other proceedings, judgments, awards, costs and expenses including, attorneys' fees or damage arise directly or indirectly from an event that first occurred prior to termination and/or liquidation of the Partnership.

(e) The Partnership shall indemnify, defend and hold harmless the Limited Partner and Special Limited Partner against any third-party claims or costs sustained or incurred by it arising out of its investment in the Partnership, provided that the same were not the result of any improper action or omission on the part of such Limited Partner, Special Limited Partner or any Affiliate thereof; and provided, further, that the General Partner shall be primarily and concurrently liable for any claims or costs sustained within the scope of either *Section 5.9(a)* or *Section 5.9(b)*.

#### **Section 5.10 Credit Adjusters.**

##### **(a) Basis Adjuster**

(1) If, as of the end of the first year of the Credit Period and based upon Cost Certification by the Accountants, it is determined that the amount of Actual Tax Credits over the Credit Period for the Project will be less than Projected Tax Credits (as adjusted pursuant to *Section 5.10(a)(2)*), hereinafter referred to as a "Permanent Credit Shortfall", then the Limited Partner shall be entitled to a return of its Capital Contributions or, if not fully paid, a reduction of same commencing with the Installment coming next due and so on until fully offset but only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the "Permanent Credit Shortfall Adjustment") in an amount equal to the product of (i) the Permanent Credit Shortfall and (ii) \$0.874. The Permanent Credit Shortfall shall mean the amount by which the Actual Tax Credits are or will be less than the Projected Tax Credits over the Credit Period due to (i) the actual Applicable Percentage being less than projected; (ii) the actual Eligible Basis being less than projected; (iii) the actual Qualified Basis as of the end of the first year of the Credit Period being less than projected Qualified Basis; (iv) the actual final allocation of Tax Credits as indicated on IRS Form 8609 being less than the Projected Tax Credits; or (v) any combination of the above. If any Permanent Credit Shortfall Adjustment required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Permanent Credit Shortfall Adjustment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however,* that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Permanent Credit Shortfall Adjustment shall be paid by the General Partner directly to the

Limited Partner as a guaranty payment and calculated on an After-Tax Basis, and the General Partner shall not receive any Capital Account credit for such payment; *provided, further*, if such Permanent Credit Shortfall Adjustment is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Permanent Credit Shortfall Adjustment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Permanent Credit Shortfall Adjustment.

(2) In the event that the amount of Actual Tax Credits that will be available, based upon the actual Qualified Basis as of the end of the first year of the Credit Period, the actual Applicable Percentage, and final allocation of Tax Credits, is greater than the Projected Tax Credits, the Limited Partner may, as set forth below, increase its Capital Contribution once during the twelve-month period following Construction Completion in an amount equal to the product of (i) the amount by which the Actual Tax Credits are greater than the Projected Credits over the Credit Period and (ii) \$0.874. The Limited Partner shall pay the amount of such increase at the time of the final installment of Capital Contribution. Notwithstanding the foregoing, the additional Capital Contribution paid pursuant to this *Section 5.10(a)(2)* shall not exceed the Upward Adjuster Cap. To the extent the amount of any increase in the Limited Partner's Capital Contribution under this *Section 5.10(a)(2)* would exceed the Upward Adjuster Cap, and the Limited Partner does not elect to contribute an amount in excess of the Upward Adjuster Cap, the Interests of the Limited Partner and the General Partner shall each be adjusted so that the additional Tax Credits will be allocated to the General Partner. Any adjustment of Tax Credits under the foregoing sentence shall not reduce the internal rate of return to the Limited Partner below the internal rate of return set forth in the Financial Forecasts.

(3) In the event that any Limited Partner Capital Contribution installments are repaid or reduced or the General Partner payments are required to be made under this *Section 5.10(a)*, the pro forma Financial Forecasts attached hereto as **Appendix II** shall be correspondingly revised and shall be considered amendments and determinative of the "Projected Tax Credits" and other amounts set forth herein if there is a conflict between any amounts set forth therein and in this Partnership Agreement.

(b) **Timing Difference in Tax Credit.**

(1) If, prior to the end of 2023, 100% of the Projected Tax Credits cannot be claimed (as determined by the Accountant) by the Limited Partner in the anticipated Fiscal Year but must be delayed and taken in a later year or years, then the Limited Partner shall be entitled to a reduction of its Capital Contribution commencing with the installment coming next due and so on until fully offset provided that the amount of the offset shall not exceed the amount of the Developer Fee payable in such Capital Contribution and only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the "Timing Reduction") in an amount equal to \$0.63 for each \$1.00 that the Actual Tax Credits for such years are less than the Projected Tax Credits for such years. This Timing Reduction is designed to compensate the Limited Partner for the reduced

present value of such delayed Tax Credits. In order not to adjust under this *Section 5.10(b)* for any shortfall in Tax Credits for which an adjustment shall have been made pursuant to *Section 5.10(a)*, the term “Projected Tax Credit” shall be revised, as provided for in *Section 5.10(a)(3)*, to reflect the actual Applicable Percentage for the Project and the actual Eligible Basis for the Project, but not taking into account any delays in placing the Project, or any portion thereof, in service. If any Timing Reduction required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Timing Reduction, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however*, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Timing Reduction shall be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such payment; *provided, further*, if such Timing Reduction is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Timing Reduction shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Timing Reduction. Notwithstanding the foregoing, any Timing Reduction described herein may be offset through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonable determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full form Cash Flow prior to maturity.

(2) If, prior to the end of 2022, more than 100% of the Projected Tax Credits can be claimed (as determined by the Accountants or by a Final Determination) by the Limited Partner in the anticipated Fiscal Year, then the Limited Partner shall make a Capital Contribution (the “Timing Increase”) in an amount equal to \$0.63 for each \$1.00 that the Actual Tax Credits for such years are more than the Projected Tax Credits for such years. The Limited Partner shall pay the amount of such Timing Increase at the time of the final Capital Contribution. Notwithstanding the foregoing, the additional Capital Contribution paid pursuant to this *Section 5.10(b)(2)* shall not exceed the Upward Timing Adjuster Cap, unless otherwise agreed to by the Limited Partner.

(c) **Material Credit Shortfall.** If, for any Fiscal Year, for any reason whatsoever, but only if such Credit Shortfall has not previously been addressed pursuant to *Section 5.10(a)* and *(b)* hereof, (1) the Actual Tax Credits are, on a cumulative basis, less than the Projected Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* or *(b)*) for such Fiscal Year or (2) the Limited Partner is required to recapture (resulting from other than a transfer of part or all of the Limited Partner’s Partnership Interest) all or any part of the Tax Credits claimed by it in any prior Fiscal Year of the Partnership (“Credit Shortfall”), then the General Partner and Guarantor, pursuant to the Guaranty Agreement, shall be obligated, subject to the limitations expressed herein, to pay to the Limited Partner the amount (“Credit Reduction Payment”) equal to the sum of: (I) \$1.00 multiplied by the Credit Shortfall; (II) the amount of any interest and/or penalties paid or payable by the Limited Partner as a result of any Recapture Event affecting the foregoing calculation of the Tax Credits recaptured in such Fiscal Year; and (III) 10% of the amounts in *clauses (I)* and *(II)* per annum commencing on the date the Credit Shortfall occurs and

continuing until the payment of the amount of such Credit Reduction Payment in full. The General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Credit Reduction Payment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; provided, however, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Credit Reduction Payment will be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such repayment. Provided, further, (i) if at any time a Credit Reduction Payment is due under this *Section 5.10(c)* solely due to change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, such Credit Reduction Payment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, and (ii) upon the expiration of the Operating Deficit Guaranty Period, Credit Reduction Payments under this *Section 5.10(c)* shall be paid solely from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, except that the General Partner and Guarantor shall continue to be responsible for the payment of Credit Reduction Payments which result from a Compliance Failure. Notwithstanding the foregoing or any other provision of this Partnership Agreement to the contrary, if the Project is destroyed by fire or other casualty, the Project shall be promptly restored and rebuilt within the time period permitted under Section 42 of the Code provided that, the Project need not be rebuilt if the Limited Partner is repaid its total Capital Contribution together with an after tax return of 9% per annum on such sum commencing on the date(s) the Limited Partner paid its Capital Contribution installments and ending on the date of repayment.

(d) **Basis Adjuster - Historic Tax Credits.**

- (1) If at any time the Accountants shall determine that, or there shall be a Final Determination or Recapture Event pursuant to which, the amount of Actual Historic Tax Credits is less than \$2,294,671 (the "Historic Credit Shortfall"), then the Limited Partner shall be entitled to a return of its Capital Contributions or, if not fully paid, a reduction of same commencing with the Installment coming next due and so on until fully offset (the "Historic Credit Shortfall Adjustment"), in an amount equal to the product of (i) the Historic Credit Shortfall and (ii) \$0.80 (except to the extent that such shortfall is attributable to the recapture of Historic Tax Credits previously reported on a Partnership tax return, in which case the amount shall be \$1.00 with respect to any portion of such shortfall attributable to such recapture). The Historic Credit Shortfall Adjustment amount shall be immediately due and owing from the General Partner and Guarantor to the Limited Partner.
- (2) In the event that any Capital Contribution installments are repaid or reduced or General Partner payments are required to be made under *Section 5.10(d)(1)*, the pro forma Financial Forecasts attached hereto as Appendix II shall be correspondingly revised and shall be considered amendments and determinative of the "Projected Historic Tax Credits" and other amounts set forth herein if there is a conflict between any amounts set forth therein and in this Agreement.

(e) **Timing Difference in Historic Tax Credits.**

(1) If the Accountants shall determine that, or there shall be a Final Determination pursuant to which, the amount of the Historic Tax Credits properly allocable to the Limited Partner is less than \$458,934 in 2022, 2023, 2024, 2025 or 2026 (the “Historic Downward Timing Adjuster Target Amounts”), then the Capital Contribution of the Limited Partner shall be reduced by \$0.36 for each \$1.00 that the amount of the Historic Tax Credits properly allocable to the Limited Partner is less than \$458,934 in 2022, 2023, 2024, 2025 or 2026. The Limited Partner shall be entitled to a return of its Capital Contribution or, if not fully paid, a reduction of same commencing with the installment coming next due and so on until fully offset but only if the Special Limited Partner determines that such reduction could not result in a reallocation of Historic Tax Credits (the “Historic Timing Reduction”). This Historic Timing Reduction is designed to compensate the Limited Partner for the reduced present value of such delayed Historic Tax Credits. In order not to adjust under this *Section 5.10(e)* for any shortfall in Historic Tax Credits for which an adjustment shall have been made pursuant to *Section 5.10(d)*, the term “Projected Historic Tax Credit” shall be revised, as provided for in the last paragraph of *Section 5.10(d)*. If any Historic Timing Reduction required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Historic Timing Reduction, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; provided, however, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Historic Tax Credits, then the Historic Timing Reduction shall be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such payment. Notwithstanding the foregoing, any Historic Timing Reduction described herein may be offset through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonably determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full from Cash Flow prior to maturity.

(2) INTENTIONALLY DELETED.

(f) **Failure to Pay; Remedies.** If the General Partner or Guarantor fails to pay any amount payable pursuant to *Section 5.10(a), (b), (c), (d)* or *(e)* above, or the repurchase amount pursuant to *Section 5.10(g)* below, owing to the Limited Partner within 30 days after written demand of the Limited Partner or the Special Limited Partner, then, in addition to any other rights the Limited Partner or the Special Limited Partner may have, any amounts due and owing to the Limited Partner and the Special Limited Partner shall be paid as follows: (1) First, any sums payable to the General Partner (or any Affiliate thereof) pursuant to the terms of this Partnership Agreement (including, without limitation, Cash Flow and any fees payable by the Partnership to

the General Partner or its Affiliates) shall instead be paid to the Limited Partner until such time as all amounts owing to the Limited Partner pursuant to this *Section 5.10* are fully repaid (for purposes of this Partnership Agreement, any sums paid to the Limited Partner pursuant to the immediately preceding sentence shall be deemed to have been paid to the General Partner (or its Affiliates) and subsequently paid by the General Partner (or its Affiliates) to the Limited Partner in satisfaction of its obligations hereunder; (2) Second, the remaining amounts shall be paid to the Limited Partner out of Cash Flow or Net Cash from Sales and Refinancings in accordance with *Section 4.1* and *Section 4.2* hereof; and (3) Third, the remaining amounts shall be paid to the Limited Partner out of the Operating Reserve or any other reserve of the Partnership. The rights and remedies granted to the Limited Partner by this *Section 5.10* shall not be exclusive of, but shall be in addition to, any other rights and remedies granted to the Limited Partner under this Partnership Agreement or by applicable law. The obligations of the General Partner under this *Section 5.10* shall be deemed to have arisen as a consequence of a transaction between the General Partner and the Limited Partner other than in their capacities as Partners and the Capital Accounts or loans of the Partners shall not be affected in any way as a result of the making of any credits or payments hereunder.

(g) **Repurchase.** Notwithstanding anything contained herein to the contrary, in the event that (1) Construction Completion and placement in service of all buildings is not achieved on or before the date required under the Code to preserve the Tax Credits or, if earlier, the date required by the State Housing Finance Agency, (2) the Partnership does not achieve Qualified Occupancy on or before six (6) months following the Qualified Occupancy Date unless any payments required under *Section 5.10* are timely paid, (3) any acceleration of a Project Loan or the commencement of any action to foreclose any mortgage covering the Project or the exercise by any lender to the Project of any power of sale or similar remedy affecting the Project prior to the end of the Operating Deficit Guaranty Period and such action is not stayed, terminated or withdrawn within 30 days or a binding agreement with the holder(s) thereof to effect the same entered into within such period, and any notice of acceleration of indebtedness waived or withdrawn, (4) the Project fails to satisfy the 50% Test as finally determined by the Accountant and approved by the Special Limited Partner or pursuant to an audit by the IRS shall have been financed with the proceeds of the Bonds, (5) the termination of the commitment for the First Mortgage Loan prior to closing and full funding of the First Mortgage Loan unless a reasonable substitute First Mortgage Loan commitment is obtained 30 days after such termination, (6) the Project is not eligible for at least 70% of the Projected Tax Credits or 70% of the Projected Historic Tax Credits, unless the Limited Partner elects instead to accept as cure the full satisfaction of all due Permanent Credit Shortfall Adjustments and Historic Credit Shortfall Adjustments or the payment of all Credit Reduction Payments under *Section 5.10*, (7) the Partnership does not receive the fully executed IRS Form(s) 8609 by the end of the first full tax year in compliance with the requirements of the Code and the State Housing Finance Agency, (8) the Partnership fails to comply with the “40-60 Set-Aside Test” of Code Section 42(g)(1)(B) or (9) prior to Stabilized Operations, the General Partner or Guarantor files for Bankruptcy, then, in any such event, upon the written request of the Limited Partner (the “Election Notice”), the General Partner shall purchase the Limited Partner’s and the Special Limited Partner’s interests in the Partnership for an amount equal to the sum of all Capital Contributions actually made to the Partnership by the Limited Partner and Special Limited Partner with interest at the rate of 12% per annum calculated from the date of such Capital Contributions, plus all expenses incurred by the Limited Partner and Special Limited Partner in connection with such repurchase, less the amount of any tax benefit (net of any tax costs, including but not limited to Tax Credit recapture and any Tax Credits claimed by the Limited

Partner that may remain subject to potential recapture) or distribution (net of any tax costs) previously received or incurred by the Limited Partner. The General Partner or Guarantor shall pay such amount within 30 days after such written request. Upon receipt of an amount as calculated above, the Limited Partner's interests as a Limited Partner in the Partnership shall terminate, the Limited Partner shall transfer its interest in the Partnership to the General Partner or its designee, and the General Partner shall indemnify and hold harmless the Limited Partner from and against any losses, damages and liabilities to which the Limited Partner (as a result of its participation hereunder) may be subject. Notwithstanding the foregoing, the Limited Partner's rights under this *Section 5.10(e)* will expire upon payment of the Fifth Installment.

(h) **Investor Rights and Remedies.** Notwithstanding anything to the contrary herein and without otherwise limiting any remedies that may be available to the Limited Partner hereunder or at law or in equity, the Limited Partner agrees that (i) as long as the General Partner has fulfilled its obligations under this *Section 5.10(a), (b), (c), (d)* and *(e)*, the Limited Partner shall have no rights to recover additional amounts under this Agreement, to cause the General Partner to purchase its Interest under *Section 5.10(g)* or to exercise its rights to remove the General Partner set forth in *Section 9.6(i)* of this Agreement, due to a failure to receive the Projected Tax Credits, and (ii) if the General Partner has repurchased the Interest of the Limited Partner pursuant to the terms and conditions of *Section 5.10(g)*, the Limited Partner shall thereafter have no rights to payments under *Section 5.10(a), (b), (c), (d)* and *(e)*, or to remove the General Partner as set forth in *Section 9.6(i)* of this Agreement. Further, if the Limited Partner removes the General Partner pursuant to the provisions of *Section 9.6(i)* of this Agreement, the Limited Partner agrees not to exercise its rights under *Section 5.10(g)* of this Agreement.

(i) **Survival.** The obligations of the General Partner and its Affiliates prescribed or described in this *Section 5.10* will survive subject to limitations on duration herein the termination and liquidation of the Partnership.

## **ARTICLE 6** **POWERS, RIGHTS AND DUTIES OF LIMITED PARTNERS**

**Section 6.1 Limitation of Liability.** Except as otherwise required under the Act (relating to a partner's liability under certain circumstances to refund to the Partnership distributions of cash previously made to it as a return of capital), the Limited Partner and the Special Limited Partner are not personally liable for any loss or liability of the Partnership beyond the amount of their applicable agreed-upon Capital Contributions.

**Section 6.2 No Participation in Management.** Except as otherwise expressly provided in this Partnership Agreement, the Limited Partner and the Special Limited Partner do not and shall not participate in the operation, management, or control of the Partnership's business, transact any business in the Partnership's name, or have any power to sign documents for or otherwise bind the Partnership.

**ARTICLE 7**  
**ACCOUNTING AND FISCAL AFFAIRS**

**Section 7.1 Books of Account.** The General Partner shall keep proper books of account for the Partnership and shall elect the accrual method of accounting for federal tax purposes. The General Partner shall keep these books of account at the principal office of the Partnership and make them available at all times for examination and copying by the Special Limited Partner or its authorized representative. The General Partner shall retain such books of account for six years after the termination of the Partnership. All decisions as to the Fiscal Year and accounting methods to be used by the Partnership may be made only with the Consent of the Special Limited Partner.

All documents referenced in Article 7 or **Appendix X** are to be submitted to the Special Limited Partner and Integratec Services, LLC, the host and service provider of the Tax Credit Asset Management Software. Documents should be electronically submitted to crea@integratec.biz as they become due.

The General Partner shall retain all documentation with respect to initial qualification of the Project as a qualified Tax Credit project until the later of six years after completion of the Project's Compliance Period or as long as is required under applicable law. The General Partner shall retain such other documentation relating to the continuing Tax Credit qualification of the Project for at least six years, unless requested by the Special Limited Partner, the or required by applicable law to retain such documentation for a longer period. The General Partner shall retain copies of tax returns and reports for the Partnership for as long as required by applicable law.

After initial lease-up of the Project, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted an audit or review of the Partnership's compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. In addition, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted a site visit of the Project. The General Partner shall cooperate with any such audit by making appropriate personnel of the General Partner and Management Agent and all books and records of the Project and Partnership available to the Limited Partner or its representatives at the offices of the Partnership during regular business hours. The General Partner shall cooperate with any site visit by making appropriate personnel of the General Partner and Management Agent available to the Limited Partner or its representative at the Project site during regular business hours.

The General Partner acknowledges and agrees that it shall cooperate fully and in good faith, and shall instruct and cause the Management Agent to cooperate fully and in good faith, with the Special Limited Partner with respect to their monitoring of the Partnership's operation of the Project Property, including the review of and compliance with Tax Credit related laws and regulations.

**Section 7.2 Reports.** The General Partner shall prepare and deliver to or shall cause to be prepared and delivered to the Special Limited Partner the reports set forth on **Appendix X** attached hereto and incorporated herein, and any other reports as may be reasonably requested by the Special Limited Partner.



### **Section 7.3 Budgets and General Disclosure.**

The General Partner shall keep the Special Limited Partner informed concerning the general state of the business and financial condition of the Partnership and shall, upon the reasonable request of the Special Limited Partner, furnish to the Special Limited Partner full information, accounts, and documentation concerning the state of the business and financial condition of the Partnership.

(a) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the occurrence of such event:

(1) there is a material default by the Partnership under any loan, grant, subsidy, construction or property management documents or in payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt; and

(2) receipt of any notice of the IRS, State Housing Finance Agency, HUD or any other federal, state or local entity having jurisdiction over the Project involving the Partnership which notice could have a material, adverse effect upon the Partnership, the Project or the Limited Partner.

(b) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the end of any calendar quarter during which such event occurred:

(1) any reserve has been reduced or terminated by application of funds therein for purposes materially different from those for which such reserves was established;

(2) the General Partner has received any notice of a material fact which may substantially affect further distributions; and

(3) any Partner has pledged or collateralized its interest in the Partnership.

### **Section 7.4 Failure to Provide Information.**

(a) Failure to provide reports within the time requirements set forth under this *Article 7* or as set forth in **Appendix X** will result in a penalty of \$50 per report per day. The foregoing penalty shall begin accruing on the 10<sup>th</sup> day after the Special Limited Partner has delivered notice to the General Partner of the reporting delinquency. Any resulting penalty shall be due and payable to the Special Limited Partner immediately upon demand. The Special Limited Partner may deliver notices electronically to the last known email address of a principal of the General Partner.

(b) If the General Partner fails to provide in a timely manner any information, reports or data required to be provided by the General Partner under this *Article 7* or **Appendix X**, or otherwise fails to perform its obligations under this *Article 7* or **Appendix X**, then, in addition to any remedies the Limited Partner may have under this Partnership Agreement or applicable law, the Partnership shall not make any distributions or payments to the General Partner pursuant to

*Section 4.1* or *Section 4.2* until such time as such information, reports or data have been provided or such other obligations have been fulfilled.

(c) The Special Limited Partner has the right to require the General Partner to remove the Accountant and the right to approve a replacement accountant if the obligations and / or reporting requirements under *Article 7* or **Appendix X** are not being met.

## **ARTICLE 8** **TRANSFER OF LIMITED PARTNER'S PARTNERSHIP INTERESTS**

### **Section 8.1**                    **Voluntary Transfers.**

(a) The Limited Partner may at any time make a Voluntary Transfer of all or any part of its Partnership Interests, so long as such Voluntary Transfer complies with the following conditions: (a) the General Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the transferor Limited Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (b) all requirements of applicable state and federal securities laws have been complied with; (c) such Voluntary Transfer will not result in the Partnership's loss of any exemption (federal or state) from the registration of the sale of securities relied upon in its offering of the Partnership Interests; (d) such Voluntary Transfer will not result in the Partnership being classified as an "association" which is taxable as a corporation for federal income tax purposes; (e) the Limited Partner reimburses the Partnership for any reasonable third-party costs and expenses incurred by the Partnership in connection with such Voluntary Transfer; and (f) such transfer is not made to any entity listed in the last sentence of *Section 5.3(d)*. Upon compliance with all of the conditions of this *Section 8.1(a)*, such Voluntary Transfer of the Limited Partner's Partnership Interests shall bind the Partnership and the General Partner, and no such transfer shall cause the dissolution and termination of the Partnership and the transferee shall automatically be deemed to be an Assignee with respect to such Partnership Interests. Notwithstanding the foregoing, the General Partner acknowledges that the Limited Partner may borrow funds to make its Capital Contribution payments and that the lender of such funds may require a security interest in the Limited Partner's interest. The General Partner's consent to such a security interest shall not be required.

(b) Notwithstanding the foregoing, any other provision of the Agreement: (1) the Limited Partner may pledge, without the consent of the General Partner or any other Person, its Partnership Interest to Fifth Third Bank as agent (together with its successors and/or assigns in such capacity, "FTB") to secure a loan to an affiliate of the Limited Partner, the proceeds of which have been used by the Limited Partner to make its Capital Contribution to the Partnership (the "FTB Pledge"); (2) FTB shall have the rights of a secured party to retain, sell or transfer the Partnership Interest so pledged in accordance with the FTB Pledge; (3) FTB shall have the right to transfer or assign its rights hereunder and under the FTB Pledge without the consent of the General Partner or any other Person; (4) in the event of any enforcement of the FTB Pledge and the foreclosure upon or other disposition of the Partnership Interest, FTB (or its nominee, successor, transferee or assignee) shall be immediately, automatically and unconditionally admitted as a Substituted Limited Partner, subject only to its execution of an agreement to be bound by this Agreement; and, (5) so long as the FTB Pledge shall not have been released in

accordance with its terms, (a) the Partnership Interests will not be, and will not become “investment property” or held in a “securities account” (within the meaning of the Uniform Commercial Code of the State (the “UCC”)) and will be, and will remain, “general intangibles” within the meaning of Article 9 of the UCC and (b) any action by any Partner to cause any of the Partnership Interests to be deemed to be or to be treated as a “security” or as “investment property” or to be held in a “securities account” within the meanings of Article 8 and Article 9, respectively, of the UCC, shall be void and of no effect. Further, the General Partner shall provide FTB with reasonable notice of and the right to cure, within a reasonable cure period, any default by the Limited Partner to make its Capital Contribution as described in *Section 2.2(b)*, and upon such cure, release any lien by the Partnership on the Limited Partner interest (if any) and consent to the transfer of such Limited Partner interest to FTB or such other entity as FTB may reasonably determine. FTB, as agent, is an intended third party beneficiary of this section.

### **Section 8.2 General Partner’s Consent to Substitution as a Limited Partner.**

(a) In addition to the requirements set forth in *Section 8.1*, an Assignee of a Limited Partner’s Partnership Interests shall not become a Substituted Limited Partner, unless and until the General Partner Consents to such substitution, which consent may not be unreasonably withheld, delayed or conditioned; provided that no such consent shall be required for the substitution of an Assignee that is an Affiliate of the Limited Partner or who is controlled by any such Affiliate, or to any other Person provided that CREA SLP, LLC remains the Special Limited Partner hereunder. The General Partner shall duly file for record any required amended certificate of limited partnership reflecting such substitution in such public offices as shall be required under the Act. The effective date of the substitution of the Assignee as a Substituted Limited Partner shall be the date on which the General Partner provides its consent, if required, or the date of the assignment to such Affiliated Assignee, as the case may be.

(b) If the General Partner’s consent is required but the General Partner does not consent to the substitution of an Assignee of the Limited Partner’s Partnership Interests, then the transferor Limited Partner retains all the rights of a transferor of a partnership interest under the Act and, except as otherwise provided in *Section 8.4*, the Assignee shall not be treated as owning any interest in the Partnership. In particular, an Assignee of the Limited Partner’s Partnership Interests who is not admitted as a Substituted Limited Partner under this *Section 8.2* shall not be entitled to: (1) require any accounting of the Partnership’s transactions; (2) inspect the Partnership’s books and records; (3) require any information from the Partnership; or (4) exercise any privilege or right of the Limited Partner that is not specifically granted to a nonsubstituted transfer of a partnership interest under the Act.

(c) The Partners hereby agree that upon the substitution of an Assignee of the Limited Partner’s Partnership Interests, the transferor Limited Partner shall be released from any and all obligations and liabilities under this Partnership Agreement arising on or after the date of said substitution, provided that all Capital Contributions, whether or not due as of the date of such substitution, have been made by the Limited Partner.

**Section 8.3 Involuntary Transfers.** The Involuntary Transfer of all or any part of the Limited Partner’s Partnership Interests shall not cause the dissolution and termination of the Partnership, but rather the business of the Partnership shall be continued without interruption in

accordance with the provisions of this *Section 8.3*. Upon an Involuntary Transfer of all or any part of the Limited Partner's Partnership Interests, the Limited Partner's successor or legal representative shall automatically be deemed to be a Substituted Limited Partner.

**Section 8.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of the Limited Partner's Partnership Interests is recognized by the Partnership under this Article 8, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the General Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. All distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee.

**Section 8.5 Disposition of Project.**

(a) The General Partner shall not transfer, sell or otherwise dispose of the Project to any Person except in accordance with this *Section 8.5*. Commencing on January 1 of the year following the close of the Credit Period and ending two (2) years thereafter, the General Partner or its designated Affiliate shall have the right to purchase the Project Property exercisable with the Consent (not to be unreasonably withheld, delayed or conditioned) of and by written notice to the Special Limited Partner, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Project, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership and (D) Exit Taxes.

The foregoing option is contingent on the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned). When determining whether to grant its Consent, the Limited Partner will consider the following: (i) the financial position of the General Partner and the Guarantor provided; however, the financial position of the General Partner and Guarantor shall be deemed sufficient by the Limited Partner as long as the General Partner and Guarantor have, in the aggregate, a net worth of \$5,000,000 and a liquidity of \$1,000,000; (ii) whether the Project has achieved a 1.20 Debt Coverage Ratio over the 12 month period immediately preceding the exercise of the option; (iii) the execution and delivery of an indemnification agreement from the General Partner and the Guarantor in form and content acceptable to the Limited Partner, with respect to Tax Credit recapture; (iv) whether there are any outstanding guarantee obligations; (v) whether there has been any material reduction in the cumulative tax benefits contained in the Financial Forecasts which would not be entirely offset by the proceeds to the Limited Partner from the exercise of this option; and (vi) whether any event of default exists or is anticipated under any of the Project Documents. Notwithstanding the foregoing, as an alternative to providing the information required in romanette (i), (ii), (iii), (iv), (v) or (vi) above, the General Partner and Guarantor may provide a commercially reasonable Tax Credit recapture insurance product

reasonably acceptable to the Limited Partner, and the Limited Partner's acceptance of such a Tax Credit recapture product shall be the Consent of the Limited Partner to the option's exercise. Furthermore, if the Limited Partner provides its Consent and the General Partner exercises the foregoing option the General Partner will (A) provide annual certificates and other such documentation as the Limited Partner deems necessary or appropriate to ensure that the Project is in compliance with this Partnership Agreement and other Project Documents and (B) pay the annual Asset Management Fee until the end of the Compliance Period.

(b) Commencing on January 1 of the year following the close of the Compliance Period and ending two (2) years thereafter, the General Partner or its designated Affiliate shall have the right to purchase the Project Property exercisable by written notice to the Special Limited Partner, provided that the General Partner has not exercised its rights under *Section 8.5(a)*, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Project, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership and (D) Exit Taxes.

(c) The purchase of the Project Property shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

#### **Section 8.6 Option to Acquire Limited Partner's and Special Limited Partner's Partnership Interests**

(a) The Limited Partner and the Special Limited Partner hereby grant to the General Partner or its designated Affiliate the option, commencing on January 1 of the year following the close of the Credit Period and ending two (2) years thereafter (the "Post-Credit Period Option Period"), with the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned), to purchase their respective interests in the Partnership (each, a "Partnership Interest") for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or
- (2) the sum of (a) any amounts owed to the applicable Limited Partner to repay any loan made by the Limited Partner to the Partnership, (b) the Credit Deficiency amount and (c) Exit Taxes.

The foregoing option is contingent on the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned). When determining whether to grant its Consent, the Limited Partner will consider the following: (i) the financial position of the General Partner and the Guarantor provided; however, the financial position of the General Partner and Guarantor shall be deemed sufficient by the Limited Partner as long as the General Partner and Guarantor have, in the aggregate, a net worth of \$5,000,000 and a liquidity of \$1,000,000; (ii) whether the Project has achieved a 1.20 Debt Coverage Ratio over the 12 month period immediately preceding the exercise

of the option; (iii) the execution and delivery of an indemnification agreement from the General Partner and the Guarantor in form and content acceptable to the Limited Partner, with respect to Tax Credit recapture; (iv) whether there are any outstanding guarantee obligations; (v) whether there has been any material reduction in the cumulative tax benefits contained in the Financial Forecasts which would not be entirely offset by the proceeds to the Limited Partner from the exercise of this option; and (vi) whether any event of default exists or is anticipated under any of the Project Documents. Notwithstanding the foregoing, as an alternative to providing the information required in romanette (i), (ii), (iii), (iv), (v) or (vi) above, the General Partner and Guarantor may provide a commercially reasonable Tax Credit recapture insurance product reasonably acceptable to the Limited Partner, and the Limited Partner's acceptance of such a Tax Credit recapture product shall be the Consent of the Limited Partner to the option's exercise. Furthermore, if the Limited Partner provides its Consent and the General Partner exercises the foregoing option the General Partner will (A) provide annual certificates and other such documentation as the Limited Partner deems necessary or appropriate to ensure that the Project is in compliance with this Partnership Agreement and other Project Documents and (B) pay the annual Asset Management Fee until the end of the Compliance Period.

(b) Commencing on January 1 of the year following the close of the Compliance Period and ending two (2) years thereafter (the "Post-Compliance Period Option Period"), the General Partner or its designated Affiliate shall have the right to purchase the Partnership Interests exercisable by written notice to the Special Limited Partner, provided that the General Partner has not exercised its rights under *Section 8.6(a)*, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or
- (2) the sum of (a) any amounts owed to the applicable Limited Partner to repay any loan made by the Limited Partner to the Partnership, (b) the Credit Deficiency amount and (c) Exit Taxes.

(c) The foregoing option to acquire any additional Partnership Interest shall lapse if notice of exercise is not given during the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable, or closing does not occur within 180 days following the close of the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable. The purchase of any additional Partnership Interests shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

Notwithstanding anything in this *Section 8.6* to the contrary, the General Partner must concurrently acquire the Partnership Interests of the Limited Partner and the Special Limited Partner.

**Section 8.7 Put Option.** At any time after the expiration of the Credit Period, the Limited Partner may require that the Partnership purchase the Limited Partner's Interest and the Special Limited Partner's Interest, subject to all then existing liens and encumbrances to title, for an amount equal to \$100 (the "Put Option"). To exercise the Put Option, the Limited Partner must deliver to the General Partner an irrevocable written notice of such exercise. The purchase by the Partnership will be closed within 60 days after the later of (i) the Limited Partner's exercise of

such right, or (ii) the receipt of all required consents, if any. Any conveyance from the Limited Partner and the Special Limited Partner to the Partnership under this *Section 8.7* will be made by quitclaim transfer, without representation or warranty of any kind by the Limited Partner or the Special Limited Partner except that the Limited Partner and the Special Limited Partner will represent that such Partner has not previously transferred its Interest and such Partner's Interest is free of liens or encumbrances other than those contemplated by the Partnership's Project Loans and/or by this Partnership Agreement (but in all events the transferred Interest shall be free of the FTB Pledge). The Limited Partner and the Special Limited Partner agree that the Partnership will have no liability for any costs, expenses, damages or fees to the Limited Partner or the Special Limited Partner as a result of the exercise of the Put Option, including, but not limited to, recapture or lost Tax Credits. Notwithstanding the foregoing, the indemnification and guaranty obligations hereunder and under the Guaranty Agreement shall not terminate as a result of the exercise of the Put Option and the General Partner shall continue to provide reports and information described herein from and after the exercise of the Put Option until the expiration of the Compliance Period.

## **ARTICLE 9**

### **TRANSFER OF GENERAL PARTNER'S PARTNERSHIP INTERESTS**

**Section 9.1 Voluntary Transfers.** The Partnership will not recognize any Voluntary Transfer of a General Partner's Partnership Interests and any such attempted Voluntary Transfer shall be invalid and ineffective as to the Partnership and the Limited Partner, unless and until: (a) the proposed transfer is of all the Partnership Interests owned by the General Partner; (b) the Special Limited Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the General Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (c) the General Partner has paid or caused to be paid all costs related to such Voluntary Transfer, including, without limitation, the reimbursement of all legal fees and expenses incurred by the Partnership in connection with such transfer; (d) such Voluntary Transfer will not result in the termination of the Partnership for Federal income tax purposes; (e) such Voluntary Transfer will not result in the Partnership being classified as an "association" which is taxable as a corporation for Federal income tax purposes; (f) the Partnership receives an opinion of legal counsel to the effect of clause (e); (g) will not result in a loss of Tax Credits to the Limited Partner; and (h) the Special Limited Partner has consented in writing to such Voluntary Transfer, which consent shall not be unreasonably withheld, with the understanding that the Limited Partner has entered into this Partnership Agreement with the General Partner in reliance upon the unique knowledge, experience and expertise of the General Partner, its principals, officers, members, and affiliates in the planning and implementation of the Project and in the area of affordable housing and development in general. The foregoing restriction on transfer is based in part on the above factors.

Upon compliance with this *Section 9.1*, such transfer of the General Partner's Partnership Interests shall bind the Partnership and the Limited Partner and no such Voluntary Transfer shall cause the termination of the Partnership. In addition, effective as of the date of full compliance with the requirements of this *Section 9.1*, the transferee of the General Partner's Partnership Interests shall be admitted as a new General Partner of the Partnership and shall be vested with all the powers and obligations with respect to the management of the Partnership as are granted to and placed upon the transferor General Partner under this Partnership Agreement.

Each of the Limited Partner and the Special Limited Partner hereby acknowledges, agrees, and consents to (i) the General Partner's signing, delivery, and performance of the foregoing Pledge and Security Agreement (General Partner) dated as of August 20, 2021 (the "GP Pledge Agreement"); (ii) the General Partner's grant of a security interest to the Bridge Lender in its Partnership Interest and the other collateral described in the GP Pledge Agreement; and (iii) the Bridge Lender's enforcement of all of its rights and remedies under the GP Pledge Agreement.

**Section 9.2 Involuntary Transfers.** An Involuntary Transfer of the General Partner's Partnership Interests at such time as there is more than one General Partner shall not dissolve the Partnership, but rather the business of the Partnership shall be continued without interruption and all of the management powers and authority granted herein to the General Partner making such Involuntary Transfer shall automatically be placed upon the remaining General Partner(s), unless the Limited Partner otherwise elects within 30 days after the occurrence of such Involuntary Transfer to dissolve the Partnership and have the Partnership's affairs and business wound up and terminated pursuant to Article 10. An Involuntary Transfer of the General Partner's Partnership Interests when there is no other General Partner in existence will dissolve the Partnership and the Partnership's affairs and business shall be wound up and terminated under Article 10, unless the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner pursuant to the provisions of *Section 9.3*.

**Section 9.3 Continuation of Partnership After Involuntary Transfer of General Partner's Partnership Interests.** Upon an Involuntary Transfer of the last remaining General Partner's Partnership Interests, the Partnership shall be dissolved and the affairs and business of the Partnership shall be wound up and terminated under Article 10, unless within 90 days after the occurrence of such Involuntary Transfer, the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner. Unless such an election is made within such 90-day period, the Partnership shall conduct only those activities that are necessary to wind up and terminate its affairs and business. If such an election is made within such 90-day period, then: (a) the reconstituted partnership shall continue until the end of the term of the Partnership's existence set forth in this Partnership Agreement; and (b) immediately upon its receipt of cash in an amount equal to the then positive balance in its Capital Account (but not less than \$100), the former General Partner shall automatically (and without the need for the execution of any further documentation) be deemed to have relinquished its entire Partnership Interest, with such relinquished Partnership Interest being automatically allocated to the new General Partner.

**Section 9.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of a General Partner's Partnership Interests is recognized by the Partnership under this Article 9, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the Special Limited Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. Any distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee. Neither the Partnership, the Limited Partner nor the Special



Limited Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this *Section 9.4*.

**Section 9.5**      **Voluntary Withdrawal.**

The General Partner shall not be permitted to withdraw from the Partnership without the Consent of the Limited Partner.

**Section 9.6**      **Removal of the General Partner.** The Special Limited Partner shall have the right to remove the General Partner for any of the following reasons:

- (a) any fraud, gross negligence or intentional misconduct of the General Partner; or
- (b) any act by the General Partner outside the scope of its duties or obligations under this Partnership Agreement or any breach by the General Partner of any fiduciary duty to the Partnership, the Special Limited Partner or the Limited Partner, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (c) the inaccuracy of any representation or warranty of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Section 5.3*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (d) the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Sections 5.3* and *5.4*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (e) any action or inaction by the General Partner or any Affiliate of the General Partner that the Special Limited Partner reasonably determines has, or with the passage of time could, (i) cause the termination of the Partnership for federal income tax purposes (except to the extent such action is expressly authorized herein), (ii) cause the Partnership to be treated for federal tax purposes as an association taxable as a corporation, (iii) violate any federal or state securities laws, (iv) cause the Partnership to fail to qualify as a partnership under the Act, (v) cause the Limited Partner or the Special Limited Partner to be liable for Partnership obligations in excess of its Capital Contribution, (vi) qualify as an event of removal or withdrawal with respect to the General Partner under the Act, or (vii) otherwise substantially reduce tax benefits or substantially increase tax liabilities of the Limited Partner (unless the reduction of tax benefits or substantial increase in tax liabilities is addressed through payments to the Limited Partner under *Section 5.10*); or

- (f) any construction cost overruns or Operating Deficits are incurred by the Partnership and not funded to the extent required hereunder under this Partnership Agreement or the Guaranty Agreement; or
- (g) a default occurs under a Project Loan and such default is not cured or waived by the lender within any applicable cure period; or
- (h) any lender to the Partnership or other creditor of the Partnership files a foreclosure or other creditor's action for exercise of control over the Project or the rents therefrom, or the filing of a bankruptcy petition or similar creditor's action by or against the Partnership or the General Partner, which petition or similar action is not withdrawn, vacated or dismissed within 60 days after filing; or
- (i) the Partnership suffers a recapture of 30% or more of the Tax Credits and resulting adjusters are not paid to the Limited Partner in a timely manner in accordance with the terms and conditions of the Partnership Agreement; provided however that the payment of resulting adjusters may be used as a method for curing this reason for removal of the General Partner on only one occasion; or
- (j) the General Partner fails to timely and promptly discharge the Management Agent pursuant to *Section 9.7*; or
- (k) any payment is required to be made to the Limited Partner or the Partnership by the General Partner or the Guarantor under this Agreement, the Guaranty Agreement or the Development Agreement but is not timely made; or
- (l) the occurrence of an "Event of Default" under the Guaranty Agreement, taking into account any applicable cure periods; or
- (m) the General Partner allows a transfer of a controlling interest in itself, other than pursuant to *Section 5.3(e)*, or otherwise breaches the representations contained in *Section 5.3(e)* of this Partnership Agreement, without the Consent of the Special Limited Partner; or
- (n) the commencement by the General Partner of a case in bankruptcy or insolvency or for compromise, adjustment or other relief under the laws of the United States or of any state relating to the relief of debtors; or
- (o) the failure of the General Partner to obtain, within 60 days of service of summons upon the General Partner, the dismissal of any case commenced against the General Partner (i) for the appointment of a trustee for the General Partner, or any of its property or (ii) in bankruptcy or insolvency or for compromise adjustment or other relief under the laws of the United States or any state relating to the relief of debtors; or
- (p) failure by the General Partner to prepare or cause to be prepared properly and to deliver or cause to be delivered in its entirety any reporting required under this Agreement; or

- (q) [Intentionally deleted]; or
- (r) failure to operate the Project in accordance with the requirements of Section 42 of the Code and the Project Loans.

The removal of the General Partner shall be effective immediately upon the receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(a), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), or *(j)*, or if the Partnership files a bankruptcy or similar relief from creditors' action. The removal of the General Partner shall be effective 30 days after the General Partner's receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(b), (c), (d), (e), (f), (k), (l), (m), (n), (o), (p)* and *(r)* and the General Partner does not cure the default specified in such notice within such 30-day period; *provided, however,* that if a default cannot be reasonably cured within 30 days, the General Partner shall not be removed if the General Partner commences such cure within 30 days and proceeds in good faith to cure diligently thereafter, provided that the cure is completed within 60 days from the General Partner's receipt of written notice of such default (or such lesser period as is required to cure the default), and the failure to cure such default within a shorter time period does not have a material adverse effect on the Partnership, the Property, or the Limited Partner. For the purposes of determining the effect of the removal of the General Partner upon the Partnership and the General Partner's continuing interest in the Partnership, such removal shall be treated as an Involuntary Transfer of the General Partner's Partnership Interests pursuant to *Sections 9.2 and 9.3* hereof; *provided, however,* that notwithstanding such removal, the General Partner shall remain liable to the Partnership and the Limited Partner for (i) all obligations and liabilities (including, without limitation, its obligations to make any payments pursuant to *Sections 5.4(g), 5.4(i), 5.4(l), 5.4(n)* and *5.10* of this Partnership Agreement and liabilities resulting from any breach of any of the representations and warranties set forth in *Section 5.3* of this Partnership Agreement) incurred by it as the General Partner before the effective date of such removal but shall be free of any obligations and liabilities incurred on account of Partnership activities from and after the time of such removal and (ii) all damages and other amounts recoverable or payable hereunder or under applicable law by or to the Partnership or the Limited Partner or the as a result of the occurrence of the event giving rise to such removal.

The General Partner hereby irrevocably appoints the Special Limited Partner and the Asset Manager as its attorney-in-fact to take all actions to effectuate the removal of the General Partner if the reason for such removal is a default under *Section 9.6(e), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), *(m), (n), (o)* or *(p)* and the designation of a replacement General Partner, which appointment is coupled with an interest and is irrevocable.

If the General Partner is removed as a Partner of the Partnership pursuant to this *Section 9.6*, the General Partner shall not be entitled to payment of any further installments of the Incentive Management Fee or Partnership Management Fee. Nothing in this paragraph shall limit or reduce the rights of the removed General Partner or any Affiliate thereof to receive any other fees for services previously performed or repayment of Operating Deficit Loans, if any, in accordance with the terms thereof; provided, however, the parties hereto agree that any cash distributions, fees,

loans or other payments otherwise distributable or owed to the removed General Partner or its Affiliates (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan) shall, in the sole and absolute discretion of the substitute General Partner, be satisfied by applying all or any of such amounts to any unpaid obligation of the removed General Partner pursuant to this Agreement (including, without limitation, any obligations of the removed General Partner pursuant to *Sections 5.4(g), 5.4(i), 5.4(l) and 5.10*). Notwithstanding the foregoing, if the General Partner is removed pursuant to *Section 9.6(a)*, the General Partner or its Affiliates will not be entitled to payment of any fees whether for services previously performed or for future services (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan).

**Section 9.7 Removal of Management Agent.** The Management Agent may not be removed or replaced without the Consent of the Special Limited Partner, and none of the services to be performed by the Management Agent under the Management Agreement may be assigned or subcontracted to third parties without the Consent of the Special Limited Partner. The General Partner shall, upon the written request of the Special Limited Partner, promptly remove the Management Agent. In addition, the General Partner shall cause every management agreement to contain a provision that either the Partnership or the Management Agent may terminate the management agreement with or without cause upon 30 days' written notice.

**Section 9.8 Security Interest.** In order to secure each and every obligation of the General Partner to the Partnership and the Limited Partner under this Partnership Agreement, the General Partner shall enter into a subordinate Security Agreement with the Partnership and the Limited Partner pursuant to which the General Partner shall pledge all of its right, title and interest in and to its interest in the Partnership to the Partnership and the Limited Partner.

## **ARTICLE 10** **DISSOLUTION, WINDING UP AND TERMINATION**

**Section 10.1 Dissolution.** The Partnership shall dissolve upon the occurrence of any of the following events:

- (a) The expiration of the term of the Partnership's existence;
- (b) The sale or other disposition of all or substantially all of the Partnership Property and the Partnership's receipt of all or substantially all of the proceeds therefrom;
- (c) The Partners' mutual election to dissolve the Partnership;
- (d) The failure of the Limited Partner to agree in writing at the time and in the manner provided in *Section 9.3* to the continuation of the business of the Partnership and the appointment of a new General Partner upon the occurrence of an Involuntary Transfer of the last remaining General Partner's Partnership Interests or the removal of the General Partner; or
- (e) The Limited Partner's election pursuant to *Section 9.2* to dissolve the Partnership upon the occurrence of an Involuntary Transfer of a General Partner's Partnership Interests, notwithstanding the fact that one or more other General Partners is in existence at such time.

**Section 10.2 Winding Up and Termination.** Upon the dissolution of the Partnership, the affairs and business of the Partnership will be wound up and terminated, the Partnership's liabilities shall be discharged and the Partnership Property shall be liquidated and distributed in the manner hereinafter described. A reasonable time shall be allowed for the orderly winding up of the affairs and business of the Partnership so as to enable the Partnership to minimize the normal losses attendant to the winding up and termination period. The winding up and termination of the affairs and business of the Partnership shall be supervised and conducted by the Liquidation Manager. The Liquidation Manager shall have the exclusive power and authority to act on behalf of the Partnership to wind up and terminate the affairs and business of the Partnership, to sell and convey the Partnership Property to such Persons (including, without limitation, any Partner or any Affiliate thereof) for such consideration and upon such terms and conditions as it deems necessary or appropriate, to discharge the Partnership's liabilities, to establish any reserves that it deems necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership, and to distribute the liquidation proceeds in the manner hereinafter described.

Upon completion of the winding up of the affairs and business of the Partnership, the liquidation proceeds shall be distributed by the Liquidation Manager in the following manner and order of priority:

(a) First, such liquidation proceeds shall be applied to the payment of debts and liabilities of the Partnership (excluding any loans made by a Partner or an Affiliate of a Partner and any unpaid Developer Fee) and the payment of expenses of the winding up of the affairs and business of the Partnership;

(b) Second, such liquidation proceeds shall be applied to the setting up of any reserves (to be held by the Liquidation Manager in an interest-bearing account) which the Liquidation Manager may deem necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership; *provided, however,* that at the expiration of such time as the Liquidation Manager deems necessary or appropriate, the balance of such reserves remaining after payment of such liabilities or obligations shall be distributed by the Liquidation Manager in the manner hereinafter set forth in this *Section 10.2*;

(c) Third, such liquidation proceeds shall be paid to satisfy debts and liabilities owed to Partners and their Affiliates described in *Section 4.2(a)* and in accordance with the priority set forth therein; and

(d) Fourth, such liquidation proceeds shall be distributed in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations to the Partners pro rata in accordance with their positive Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods, including, without limitation, the allocations to be made under *Section 3.2(m)* hereof.

**Section 10.3 Compliance with Liquidation Requirements of Regulations.** If the Partnership is "liquidated" within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, then:

(a) Distributions shall be made pursuant to *Section 10.2* (if such "liquidation" constitutes a dissolution and termination of the Partnership) to the Partners who have positive

balances in their Capital Accounts in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations;

(b) If the General Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the General Partner shall contribute to the capital of the Partnership the amount necessary to restore the balance in its Capital Account to zero;

(c) If the Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the Limited Partner may contribute to the capital of the Partnership the lesser of (i) such deficit balance in its Capital Account or (ii) the limited dollar amount, if any, of its Capital Account deficit which the Limited Partner has expressly agreed in writing to restore to the capital of the Partnership pursuant to *Section 10.4*; and

(d) Any such contribution by a Partner shall be made on or before the later of (1) the end of the taxable year of the “liquidation” or (2) 90 days after the date of the “liquidation”.

Notwithstanding anything to the contrary contained in this *Section 10.3*, in the event the Partnership is “liquidated” within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, but such “liquidation” does not constitute a dissolution and termination of the Partnership pursuant to this Partnership Agreement, then no distributions shall be made pursuant to *Section 10.2*. Instead, the Partnership shall be deemed to have contributed the Partnership Property to a new “Partnership” (which shall be deemed to be the “Partnership” governed by this Partnership Agreement) in exchange for an interest in the new “Partnership” and, immediately thereafter, the Partnership liquidates by distributing interests in the new “Partnership” to the then Partners in proportion to their respective interests in the Partnership, followed by the continuation of the business by the new “Partnership.” The Capital Accounts of the then Partners of the Partnership shall be their Capital Accounts of the new “Partnership.”

**Section 10.4 Rights and Obligations of Limited Partner Upon Dissolution.** Except as otherwise expressly provided in *Section 10.3(b)*, the Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution. Except as otherwise elected by the Limited Partner, pursuant to this *Section 10.4*, the Limited Partner shall not have any obligation to restore any deficit in its Capital Account upon the liquidation of the Partnership. Notwithstanding anything to the contrary contained in this Partnership Agreement, the Limited Partner may from time to time elect to be obligated to restore a deficit in its Capital Account up to a limited dollar amount. Such election shall be made by the Limited Partner’s delivery of a written notice of election to the General Partner no later than December 31 of the taxable year for which such election is to be effective and shall specify the dollar amount of the deficit in its Capital Account that the Limited Partner agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Limited Partner’s Partnership Interests.

**Section 10.5 Waiver of Partition.** Each Partner hereby waives any right to partition or cause a partition of the Partnership Property.

**Section 10.6 Final Accounting.** The Liquidation Manager shall furnish each of the Partners with a final accounting and a statement setting forth the assets and liabilities of the Partnership as of the date of the completion of the winding up and termination of the affairs and business of the Partnership. Upon completion of the distribution plan set forth in this Article 10, the Liquidation Manager shall cause to be executed by the appropriate parties and filed in such public offices as shall be required under the Act a cancellation of the articles of organization of the Partnership and any and all other documents which the Liquidation Manager deems necessary or appropriate to effect the dissolution and termination of the Partnership.

## **ARTICLE 11** **MISCELLANEOUS**

**Section 11.1 Notices and Addresses.** All notices, consents, demands, requests, or other communications which may or are required to be given hereunder shall be in writing and shall be sent by email, overnight courier or United States mail, registered or certified, return receipt requested, postage prepaid to the Partnership at the address of the Partnership's principal office and to the Partners at the addresses set forth after their respective names in Article 1. The Partnership and any Partner may change its or his address for the giving of notices, consents, demands, requests, or other communications by delivering written notice to the Partnership and to all the Partners of its or his new address for such purpose. Notices, consents, demands, requests, or other communications shall be deemed given or served on the day when sent by email, one Business Day after deposit with an overnight courier or three Business Days after deposit in the United States mail.

**Section 11.2 Pronouns and Plurals.** All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

**Section 11.3 Counterparts; Electronic or Facsimile Transmission of Signature.** This Partnership Agreement may be executed in several counterparts all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart. This Partnership Agreement may be executed using Electronic Signatures and delivered via .pdf and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of manually signed paper documents which has been converted into electronic form (such as scanned into .pdf format), or an electronically signed documents converted into another format, for transmission, delivery and/or retention.

**Section 11.4 Applicable Law.** This Partnership Agreement and the rights of the Partners hereunder shall be interpreted in accordance with the laws of the State of Ohio.

**Section 11.5 Successors.** This Partnership Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.

**Section 11.6 Severability.** The invalidity or unenforceability of any provision of this Partnership Agreement in a particular respect shall not affect the validity and enforceability of any other provisions of this Partnership Agreement or of the same provision in any other respect.

**Section 11.7 Exhibits.** All exhibits or appendices attached hereto or referred to herein are incorporated herein by this reference.

**Section 11.8 Limitation of Benefits.** It is the explicit intention of the Partners that no person or entity other than the Partners and the Partnership is or shall be entitled to bring any action or enforce any provision of this Partnership Agreement against any Partner or the Partnership, and that the covenant, undertakings and agreements set forth in this Partnership Agreement shall be solely for the benefit of and shall be enforceable only by the Partners and the Partnership (and theirs or its respective successors and assigns as permitted hereunder).

**Section 11.9 Entire Agreement.** This Partnership Agreement contains the entire agreement among the Partners with respect to the transactions contemplated herein and supersedes all prior or written agreements, commitments, or understandings with respect to the matters provided for herein and therein.

**Section 11.10 Broker's Commission and Indemnity.** Each of the parties to this Partnership Agreement warrants and represents to the others that it has not been introduced to the other party by any broker, nor has it been in contact with any real estate or business broker or consultant otherwise than as specified in this Partnership Agreement regarding the Project Property; and each party to this Partnership Agreement agrees to indemnify and hold the other party harmless from all suits, claims, actions, loss or expenses (including reasonable attorney's fees) arising from the claim of any person to a brokerage or other commission in connection with this transaction and resulting from contact with or other action, alleged or actual, of the indemnifying party.

**Section 11.11 Amendment of Partnership Agreement.** Except as otherwise provided for herein, this Partnership Agreement may not be amended in whole or in part except by a written instrument signed by the General Partner, the Limited Partner and the Special Limited Partner.

**Section 11.12 Signage.** The General Partner shall cause the name of the Limited Partner and the Special Limited Partner and the logo of the Limited Partner and the Special Limited Partner (the forms of which shall be provided to the General Partner) to be prominently displayed on all construction site signage for the Project. The Special Limited Partner, in its discretion and subject to reasonable local regulations and proper safety and construction concerns and needs, may install a construction sign on the Project at its own cost and expense.

**Section 11.13 No Third Party Beneficiary.** No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any



purpose by any creditor or other third party until such Capital Contribution is made or loan is advanced nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

**Section 11.14 Waivers.** Any forbearance by the Limited Partner in exercising any right or remedy under this Partnership Agreement, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy, or the subsequent exercise of any right or remedy. The enforcement by the Limited Partner of any right herein shall not constitute an election by the Limited Partner of remedies so as to preclude the exercise of any other right available to the Limited Partner.

**Section 11.15 HUD REQUIRED PROVISIONS.** Notwithstanding any clause or provision in the Certificate or in this Agreement to the contrary, and so long as HUD, or its successors or assigns, insures or holds any loan to Borrower (the “**HUD-insured Loan**”), including the loan secured by a mortgage lien on Pendleton III Apartments (FHA Project No. 046-35775) in Cincinnati, Ohio (the “**Project**”) the following provisions apply:

The terms listed below shall have the following definitions:

“**Borrower**” means Pendleton Housing Partners, L.P., an Ohio limited partnership.

“**Lender**” means the entity identified as “Lender” in the first paragraph of the Security Instrument, or any subsequent holder of the HUD-insured Note.

“**HUD Regulatory Agreement**” means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“**Security Instrument**” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended, or modified.

“**HUD-insured Note**” means the Note executed by Borrower, and described in the Security Instrument, including all schedules riders, allonges and agenda, as such Note may be amended from time to time.

Requirements:

1. If any of the provisions of Borrower’s organizational documents conflict with the terms of the HUD-insured Note, Security Instrument, or HUD Regulatory Agreement (“**HUD Loan Documents**”), the provisions of the HUD Loan Documents shall control.
2. No provision required by HUD to be inserted into the organizational documents may be amended without HUD’s prior written approval. Additionally, if there is a conflict between any HUD-required provisions inserted into this Agreement and any other provision of this Agreement, the terms of the HUD-required provisions will govern; and if there is a conflict

between any of the provisions in the Certificate and any HUD-required provisions of this Agreement, the HUD-required provisions will govern.

3. Unless otherwise approved in writing by HUD, Borrower's business and purpose shall consist solely of the acquisition, ownership, operation and maintenance of the Project and activities incidental thereto. Borrower shall not engage in any other business or activity. The Project shall be the sole asset of the Borrower entity, which shall not own any other real estate other than the aforesaid Project.
4. None of the following will have any force or effect without the prior written consent of HUD:
  - a. Any amendment that modifies the term of Borrower's existence;
  - b. Any amendment that triggers application of the HUD previous participation certification requirements (as set forth in Form HUD2530, Previous Participation Certification, or 24 CFR § 200.210, et seq.);
  - c. Any amendment that in any way affects the HUD Loan Documents;
  - d. Except as permitted under section 10 below, any amendment that would authorize any member, manager, partner, owner, officer or director, other than the one previously authorized by HUD, to bind the Borrower entity for any matters concerning the Project which require HUD's consent or approval;
  - e. A change that is subject to the HUD TPA requirements contained in Chapter 13 of HUD Handbook 4350.1 REV-1;
  - f. Any change in a guarantor of any obligation to HUD (including those obligations arising from violations of the HUD Regulatory Agreement); and
  - g. Any grant of a security interest in any of the Borrower's assets or mortgaged property.
5. Borrower is authorized to execute a Note and Security Instrument in order to secure a loan to be insured by HUD and to execute the HUD Regulatory Agreement and other documents required by the Secretary in connection with the HUD-insured loan.
6. Any incoming partner of Borrower must, as a condition of receiving an interest in the Borrower entity, agree in writing to be subject to the HUD Loan Documents and all other documents required in connection with the HUD-insured loan, to the same extent and on the same terms as the other members/partners/owners.
7. Upon any dissolution, no title or right to possession and control of the Project, and no right to collect the rents from the Project, shall pass to any person or entity that is not bound by the HUD Regulatory Agreement in a manner satisfactory to HUD.

8. The key principals of Borrower identified in the HUD Regulatory Agreement are liable in their individual capacities to HUD to the extent set forth in the HUD Regulatory Agreement.
9. Borrower shall not voluntarily be dissolved or converted to another form of entity without the prior written approval of HUD.
10. Borrower has designated Stephen R. Whyte as its official representative for all matters concerning the Project that require HUD consent or approval. The signature of this representative will bind the Borrower entity in all such matters. Borrower may, from time to time, appoint a new representative to perform this function, provided that the individual so appointed is 2530 Previous Participation Certified, and within three business days of doing so, will provide HUD with written notification of the name, address, and telephone number of its new representative. When a person other than the person identified above has full or partial authority with respect to management of the Project, Borrower will promptly provide HUD with the name of that person and the nature of that person's management authority.
11. Any obligation of the Partnership to provide indemnification under this Agreement shall be limited to (i) amounts mandated by state law, if any, (ii) coverage afforded under any liability insurance carried by the Partnership and (iii) available surplus cash of the Borrower as defined in the HUD Regulatory Agreement. Until funds from a permitted source for payment of indemnification costs are available for payment, the Partnership shall not (a) pay funds to any members, partners, officers and directors, or (b) pay the deductible on an indemnification policy for any members, partners, officers and directors.
12. No amendment or change to the obligations or rights of the Limited Partner, as approved by HUD, may be made without the prior written consent of HUD and Lender.


*[Remainder of this page intentionally left blank]*

The Partners have executed this Partnership Agreement as of the date first set forth at the beginning hereof.

**GENERAL PARTNER:**


PENDLETON HOUSING MANAGEMENT, LLC,  
an Ohio limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By:   
\_\_\_\_\_  
Stephen R. Whyte, President

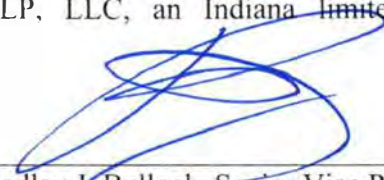
**LIMITED PARTNER:**

CREA PENDLETON III APARTMENTS, LLC, a  
Delaware limited liability company

By:   
Bradley J. Bullock, Senior Vice President

**SPECIAL LIMITED PARTNER:**

CREA SLP, LLC, an Indiana limited liability  
company

By:   
Bradley J. Bullock, Senior Vice President

The Withdrawing Limited Partner hereby withdraws from the Partnership:

**WITHDRAWING LIMITED PARTNER:**



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Stephen R. Whyte, an individual

**APPENDIX I**  
**DEFINITIONS**

The capitalized words and phrases used in the Partnership Agreement shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of such words and phrases):

“50% Test” means receipt by the Special Limited Partner of evidence satisfactory to the Special Limited Partner demonstrating that the Partnership has met the “50% test” as set forth in Section 42(h)(4)(B) of the Code with respect to the Project.

“Accountant” means initially Propp Christensen Caniglia LLP or such certified public accountant as is selected by the General Partner with the Consent of the Special Limited Partner; *provided, however*, that the General Partner shall not need to obtain the Special Limited Partner’s Consent if the General Partner selects a “Big 4” accounting firm as the Accountant.

“Act” means the Uniform Limited Partnership Act of the State of Formation, as may be amended from time to time during the term of the Partnership.

“Actual Historic Tax Credits” means the total amount of Historic Tax Credits properly allocable by the Partnership to the Limited Partner pursuant to the Code, as such amount may be increased or decreased as a result of a subsequent determination by the Accountants, a Final Determination or a Recapture Event. The Actual Historic Tax Credits shall be retroactively revised if the amount of the Actual Historic Tax Credits properly allocable to the Limited Partner is revised as the result of an audit or is otherwise recaptured.

“Actual Tax Credits” means the Tax Credits to which the Limited Partner is actually entitled pursuant to Section 42 of the Code.

“Adjusted Capital Account Deficit” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account as of the end of the relevant Fiscal Year after giving effect to the following adjustments: (a) the credit to such Capital Account of any amounts which such Partner is obligated to restore under this Partnership Agreement or is deemed to be obligated to restore pursuant to either (i) the penultimate sentences of Treas. Reg. Section 1.704-2(g)(1) and Treas. Reg. Section 1.704-2(i)(5), or (ii) amounts that the Partner is treated as obligated to restore under Treas. Reg. Section 1.704-1(b)(2)(ii)(c); and (b) the debit to such Capital Account of the amounts described in Treas. Reg. Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treas. Reg. Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Administrative Adjustment Request” means an administrative adjustment request under Section 6227 of the Code.

“Affiliate” means, with respect to any Person: (a) any Person directly or indirectly controlling, controlled by or under common control with such Person; (b) any Person owning or controlling 10% or more of the outstanding voting securities of such Person; (c) any officer, director or general partner of such Person; or (d) any Person who is an officer, director, general

partner, trustee or holder of 10% or more of the voting securities of any Person described in clauses (a) through (c) of this subparagraph.

“After-Tax Basis” means, with respect to any payment to be received by the Limited Partner, the amount of such initial payment supplemented by a further payment or payments so that, after deducting from such payments the amount of all income taxes imposed on the members of the Limited Partner by any governmental authority with respect to such payments, the remaining balance of such payments shall be equal to the amount of the initial payment. For purposes of the calculation under this definition, it will be assumed that the federal and state taxes are payable at the actual marginal federal and state income tax rates.

“Applicable Federal Rate” means the minimum interest rate that can be charged without attribution of interest under Code Section 1274(d).

“Applicable Percentage” means the percentages specified in *Section 5.3(ee)*.

“Architect” means True Craft Architecture LLC, a Louisiana limited liability company.

“Asset Management Fee” means an annual fee equal to \$7,800 per year, earned on an annual basis, beginning on the date that the full amount of the First Installment of the Capital Contribution has been contributed (with a pro-rata share of such fee earned for any partial calendar year) and increasing annually at a rate of 3.0%. The Asset Management Fee is not covered by the Operating Deficit Guaranty and shall be payable only out of available Cash Flow and Net Cash from Sales and Refinancings as provided in *Sections 4.1* and *4.2* and shall accrue, without interest, until there is sufficient cash available to pay any accrued Asset Management Fee as set forth in *Sections 4.1* and *4.2*.

“Asset Manager” means CREA, LLC, an Indiana limited liability company, or its designee.

“Assignee” means a Person to whom all or any part of the Limited Partner’s Partnership Interest has been transferred in a manner permitted under this Partnership Agreement, but who has not been admitted to the Partnership as a Substituted Limited Partner with respect to the transferred Partnership Interest.

“Authority” or “Authorities” means any nation or government, any state or other political subdivision thereof, and any entity exercising its executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including but not limited to, any federal, state or municipal department, commission, board, bureau, agency, court, tribunal or instrumentality.

“Bankruptcy” or “Bankrupt” as to any Person means the filing of a petition for relief as to any such Person as debtor or bankrupt under the Bankruptcy Act of 1898 or the Bankruptcy Code of 1978 or like provision of law (except if such petition is contested by such Person and has been dismissed within 60 days); insolvency of such Person as finally determined by a court proceeding; filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of his assets; commencement of any proceedings relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereinafter



in effect, either by such Person or by another, provided that if such proceeding is commenced by another, such Person indicates his approval of such proceeding, consents thereto or acquiesces therein, or such proceeding is contested by such Person and has not been finally dismissed within 60 days.

“Bond Issuer” means OHFA.

“Bond Loan” means the loan described as such in **Appendix IV**, based on loan documents acceptable to the Special Limited Partner.

“Bond Loan Documents” means the loan documents evidencing the Bonds and the Bond Loan.

“Bonds” means the Ohio Housing Finance Agency Multifamily Housing Revenue Bonds (Pendleton Apartments Project) Series 2021 in the amount of \$12,000,000. The Bonds have been publicly offered.

“Bond Trustee” means U.S. Bank National Association, a national banking association.

“Bridge Lender” means Colliers Funding LLC, a Delaware limited liability company.

“Bridge Loan” means the loan described as such in **Appendix IV**, based on loan documents acceptable to the Special Limited Partner.

“Bridge Loan Documents” means the loan documents evidencing the Bridge Loan. The Special Limited Partner has approved the Bridge Loan Documents delivered to it in connection the closing of the Bridge Loan on the date hereof.

“Building Permits” means all permits required by the relevant Authority to construct the Project.

“Business Day” means a day during which commercial banks in Indianapolis, Indiana are open for business of the nature required for the implementation or administration of this Agreement.

“Capital Account” means, with respect to any Partner, the capital account maintained for such Partner pursuant to *Section 2.5*.

“Capital Contribution” means, with respect to any Partner, the amount of money and the fair market value of property contributed to the Partnership by such Partner.

“Capital Transaction” means any transaction the proceeds of which are not includable in determining Cash Flow, including without limitation the sale, refinancing or other disposition of all or substantially all of the assets of the Partnership, but excluding loans to the Partnership (other than a refinancing of any Project Loan) and contributions of capital to the Partnership by the Partners.

“Cash Flow” means the excess of Cash Receipts over Operating Expenses. Cash Flow shall be determined separately for each Fiscal Year or portion thereof.

“Cash Receipts” means all cash receipts of the Partnership from whatever source derived other than from a Capital Transaction, including, without limitation, rental revenues and government subsidy payments. In addition, any amount released without restriction from any escrow or reserve account in a Fiscal Year (including, without limitation, the Operating Reserve and the Replacement Reserve) shall be considered a cash receipt of the Partnership for such Fiscal Year. Notwithstanding the foregoing, at the election of the General Partner, Cash Receipts received near the end of a Fiscal Year and intended for use in meeting the Partnership’s obligations (including the cost of acquiring assets or paying debts or expenses) in the subsequent Fiscal Year shall not be deemed to be received until such following Fiscal Year.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.

“Certificate” has the meaning set forth in the Recitals.

“Code” means the Internal Revenue Code of 1986, as the same may be amended from time to time (or any corresponding provisions of any successor law).

“Compliance Failure” means the failure of the Project to qualify as a low income Project within the meaning of Section 42(g) of the Code or the failure of any unit in the Project to qualify as a low income unit within the meaning of Section 42(g) of the Code due to the action or inaction of the General Partner and/or the Management Agent. Compliance Failure shall not include foreclosure.

“Compliance Period” means, with respect to the Project Property, the 15-year compliance period specified in Section 42(i)(1) of the Code.

“Consent” means the prior written consent or approval of the party for which consent is sought, which consent, unless otherwise specifically provided herein, may be given or withheld in such party’s sole discretion.

“Construction Completion” means completion of the Project free and clear of all mechanics’ and similar liens (except for liens which have been bonded over or insured over up to \$100,000), in accordance with the Plans and Specifications and in accordance with the terms, conditions and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property together with receipt of copies of the Building Permits signed by the relevant local authorities (to evidence satisfactory inspection and approval of the rehabilitation of the Project and permanent certificates of occupancy) and satisfactory resolution of each action item referenced in the Environmental Clearance Letter.

“Construction Completion Date” means December 1, 2022.

“Construction Contract” means the construction contract in the guaranteed maximum amount of \$9,467,038 (including all exhibits and attachments thereto) to be entered into between

the Partnership and the General Contractor, pursuant to which the Project Property is to be rehabilitated. Such Construction Contract, and any amendments thereto, shall be subject to the Consent of the Special Limited Partner, which, except for future amendments, shall be deemed approved as of the date hereof.

“Cost Certification” means the certified audit prepared by the Accountants, reasonably approved by the Limited Partner and submitted to the State Housing Finance Agency, itemizing the Partnership’s development and related costs for purposes of establishing the amount of Tax Credits and Historic Tax Credits available to the Project.

“Cost Savings” means (i) a permanent reduction in Development Costs from that set forth in the Financial Forecasts without an offsetting reduction in Capital Contributions or proceeds of Project Loans or (ii) a permanent increase in development sources from those set forth in the Financial Forecasts without an offsetting increase in Development Costs. The determination of Cost Savings is subject to the Consent of the Special Limited Partner and shall be released concurrently with the funding of the Fourth Installment. If any Cost Savings are realized they shall be applied in the following order: (i) a reduction in the deferred Developer Fee, (ii) a reduction in the First Mortgage Loan amount, (iii) to capital improvements reasonably acceptable to the Special Limited Partner, and (iv) the balance, if any, shall be distributed in accordance with *Section 4.1*.

“Cost Segregation Study” means the cost segregation study for the 5- and 15- year property associated with the acquisition and rehabilitation of the Project, which has been approved by the Accountants and the Limited Partner.

“Credit Deficiency” means the Projected Tax Credits and Projected Historic Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to *Section 5.10(a), (b), (d) or (e)*) less the aggregate amount of Actual Tax Credits and Actual Historic Tax Credits received by the Limited Partner which shall be computed no sooner than at the end of the Compliance Period, less the amount of any Credit Reduction Payment made pursuant to *Section 5.10(c)(I)*. For purposes hereof, the Limited Partner shall be considered to have received Tax Credits and Historic Tax Credits in the amount allocated to such Limited Partner on the Partnership’s federal income tax returns reduced by (a) any adjustment of the Partnership’s tax return that is made or claimed by the IRS, except to the extent that such adjustment or claimed adjustment is rejected or overturned by the IRS or a court and the order of such court is beyond the time for appeal; and (b) the amount of any recapture or claimed recapture of such Credits and Historic Tax Credits (other than recapture caused by the action of a Limited Partner and not including recapture which is rejected by the IRS or a court). The Credit Deficiency shall be calculated on an After-Tax Basis.

“Credit Period” means, with respect to any building the period described in Code Sections 42(f)(1) and (2), which generally is the period of ten (10) taxable years beginning with (a) the taxable year in which the building is Placed in Service or (b) at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building (as defined in the Code) as of the close of the first year of such period. Special rules apply to the determination of the Credit Period for multiple building Projects and the Credit Period may include the eleventh (11th) year of such period as provided in Code Section 42(f)(2).

“Credit Reduction Payment” has the meaning attributed thereto in *Section 5.10(c)* of this Partnership Agreement.

“Credit Shortfall” has the meaning attributed thereto in *Section 5.10(c)*.

“Debt Coverage Ratio” means the ratio of (i) Cash Receipts (excluding releases of reserves) less Operating Expenses (but for purposes of this definition, Operating Expenses shall not include any payment of principal and interest on any Partnership indebtedness) to (ii) principal and interest payments due and payable with respect to the First Mortgage Loan, but excluding loans to the Partnership from the General Partner or the Developer.

“Debt Coverage Ratio Requirement” means a Debt Coverage Ratio of at least 1.15:1.00 at Stabilized Operations and 1.10:1.00 throughout the Compliance Period.

“Deferred Development Fee Note” means the Promissory Note from the Partnership to the Developer attached as Exhibit A to the Development Agreement.

“Developer” means Vitus Development IV, LLC, a Delaware limited liability company.

“Developer Fee” means in the aggregate \$4,044,882 but not to exceed the maximum amount allowed by the State Housing Finance Agency (plus certain cost savings realized by the Partnership, as described in the Development Agreement) payable at the times and upon the conditions set forth in the Development Agreement.

“Development Agreement” means the Development Agreement to be entered into by the Partnership and the Developer pursuant to which the Developer shall assume primary responsibility for overseeing the development of the Project Property and bearing certain cost overruns.

“Development Costs” has the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Development Deficit Loans” have the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Disposition Fee” means the amount equal to 6% of the Project’s sale price less any brokerage fees paid to any other Person.

“Economic Risk of Loss” has the meaning specified in Treas. Reg. Section 1.752-2.

“Election Notice” has the meaning set forth in *Section 5.10(g)*.

“Electronic Signature” means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

“Eligible Basis” means, generally, the adjusted basis of a building for depreciation purposes determined as of the close of the first taxable year of the Credit Period, subject to certain exclusions as set forth in the Code.

“Environmental Clearance Letter” means the letter issued by Nova Group, GBC, July 26, 2021 with respect to the Project, attached hereto as **Appendix XI**.

“Environmental Laws” means all federal, state and local worker safety, environmental, land use, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environmental or human health and safety, or governing the use storage, treatment, generation, transportation, processing, handling, production, remediation, abatement, purchase, sale or disposal of Hazardous Substance and the written rules, regulations, policies, guidelines, interpretations, decisions, orders and directive of federal, state and local government agencies and authorities relating to the environment or worker safety, which include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.) (“CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et. seq.) (“RCRA”), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et. seq.) (“TSCA”), the Hazardous Materials Transportation Act, as amended, (39 U.S.C. Section 1801 et. seq.), the Occupational Health and Safety Act (29 U.S.C. Section 651 et. seq.), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.) or any other applicable laws and regulations adopted and promulgated thereunder that protect the environment or human health and safety.

“Exit Taxes” means an amount equal to the amount of any federal, state or local income tax liability which would be imposed upon the Limited Partner as a result of the deficit balance in the Limited Partner’s Capital Account, assuming that the Limited Partner is subject to the highest marginal federal, state and local income tax rates.

“Fair Market Value” means the fair market value as determined by a M.A.I. appraiser selected by the General Partner. The costs of determining the Fair Market Value shall be paid for by the Partnership.

Notwithstanding the foregoing, for purposes of determining the Fair Market Value the following shall apply:

- (i) The General Partner shall select a third-party M.A.I. appraiser with at least five (5) years of relevant experience and licensed to do business in the state where the Project Property is located.
- (ii) The appraiser may, in its professional judgment, consider that it is the intention of the parties that the Partnership continue to own the Project throughout the term of the Restrictive Covenant and for so long thereafter as the General Partner determines.
- (iii) The appraiser may, in its professional judgment, use the discounted cash flow method of the income approach to value the net cash flows projected to be distributed to the Limited Partner and the Special Limited Partner including the cash proceeds the Limited Partner and the Special Limited Partner would receive if

the property were sold at the end of a typical holding period, as determined by the appraiser, to be consistent with standard valuation methodology (“Net Cash Flows”).

- (iv) The appraisal may assume the deed and tax credit restrictions remain in place for the period of time as specified in the Restrictive Covenant and the appraiser may, in its professional judgment, apply the then appropriate discount rate to the Net Cash Flows taking into consideration all relevant factors including any (1) restrictions contained in the Partnership Agreement, (2) limitations on distributions of economic benefits and other restrictions contained in any regulatory agreement, and (3) limitations on use, occupancy, rent and other restrictions contained in any Restrictive Covenant.
- (v) The appraiser may, in its professional judgment, (1) determine if the resulting present value of the Partnership Interests (the “Present Value”) should be reduced due to a minority interest/lack of control discount, and whether to apply a discount factor that is consistent with then market conditions; and (2) then determine if the Present Value should be further reduced due to a lack of marketability discount that is consistent with then market conditions, and whether to apply a discount factor that is consistent with then market conditions.

“Fifth Installment” has the meaning set forth in **Appendix VIII** hereof.

“Final Determination” means the earliest to occur of (i) the date on which a decision, judgment, decree or other order has been issued by any court of competent jurisdiction, which decision, judgment, decree or other order has become final (i.e., all allowable appeals requested by the parties to the action have been exhausted), (ii) the date on which the IRS has entered into a binding agreement with the Partnership with respect to such issue or on which the IRS has reached a final administrative determination with respect to such issue which, whether by law or agreement, is not subject to appeal, (iii) the date on which the time for instituting a claim for refund has expired, or if a claim was filed the time for instituting suit with respect thereto has expired, or (iv) the date on which the applicable statute of limitations for raising an issue regarding a federal income tax matter with respect to the Partnership has expired.

“Final Endorsement” means the date upon which the promissory note evidencing the First Mortgage Loan is finally endorsed for mortgage insurance purposes by or on behalf of HUD.

“Final Partnership Adjustment” means a notice from the IRS of a final partnership adjustment under Section 6231 of the Code.

“Financial Forecasts” means the Financial Forecasts attached hereto as **Appendix II**.

“First Installment” has the meaning set forth in **Appendix VIII** hereof.

“First Mortgage Lender” means Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company, with insurance from HUD under Section 221(d)(4) of the National Housing Act, as amended.

“First Mortgage Loan” means those loan(s) described as such in Appendix IV, with terms no less favorable than those set forth in Appendix IV and loan documents acceptable to the Special Limited Partner. Unless otherwise agreed to by the Special Limited Partner, in connection with Final Endorsement, the Project shall satisfy the Debt Coverage Ratio Requirement over a consecutive 90-day period using: (i) the annualized aggregate substantiated Cash Receipts of the Project at the time (excluding tenant based rental subsidies in excess of current asking rents and adjusted for the vacancy rate assumed in the Financial Forecasts if such rate is greater than the actual vacancy rate) and (ii) annualized aggregate Operating Expenses (excluding any payment of principal and interest on any Partnership indebtedness) which shall reflect the Specified Expense Line Items and, for all other Operating Expenses, the greater of the Special Limited Partner’s projected expenses included in the Financial Forecasts and the actual substantiated expenses of the Project at the time. Pursuant to the Financial Forecasts attached hereto, the maximum principal amount of the First Mortgage Loan is \$12,179,000. The First Mortgage Loan will be insured by HUD under Section 221(d)(4) of the National Housing Act, as amended.

“First Mortgage Loan Documents” means HUD Firm Commitment and all other loan documents evidencing the First Mortgage Loan.

“Fiscal Year” means the 12-month period which begins on the first day of January and ends on the 31<sup>st</sup> day of December of each calendar year (or ends on the date of final dissolution for the year in which the Partnership is wound up or dissolved).

“Fourth Installment” has the meaning set forth in Appendix VIII hereof.

“Fund” means an assignee of the Limited Partner’s Partnership Interest where the general partner or managing member of the assignee is an Affiliate of the Limited Partner or Special Limited Partner, which Fund shall not include as a member or manager any Person listed in the last sentence of *Section 5.3(d)*, or an affiliate thereof, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Person listed in the last sentence of *Section 5.3(d)*.

“General Contractor” means Frerichs Construction Company, a Minnesota corporation, or such other general contractor as Consented to by the Special Limited Partner.

“General Partner” means collectively Pendleton Housing Management, LLC, an Ohio limited liability company, or any other Person who becomes a successor General Partner pursuant to *Section 9.1* or *Section 9.3*.

“Guarantor” means Vitus Group, LLC, a Delaware limited liability company.

“Guaranty Agreement” means the Guaranty Agreement to be entered into between the Partnership and the Guarantor for the benefit of the Limited Partner.

“HAP Contract” means the Project-based Section 8 Housing Assistance Payments Renewal Contract entered into between Assisted Housing Services Corporation as an Agent for Columbus Metropolitan Housing Authority and the Partnership pursuant to which rental subsidies under Section 8 of the United States Housing Act of 1937 will be provided to all of the LIHTC Units at

the Project. The term of the HAP Contract will commence September 1, 2021 and will run for a period of 20 years.

“Hazardous Substance” means, without limitation, any combustible substances, ignitable substances, flammable substances, corrosive substances, reactive substances, explosives, radon, radioactive materials, asbestos, lead-based paint, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum-based products, methane, and hazardous materials, hazardous chemicals, hazardous wastes, hazardous or toxic substances or related materials, including those as so defined in or regulated by Environmental Laws.

“Historic Credit Shortfall” has the meaning set forth in *Section 5.10(d)*.

“Historic Credit Shortfall Adjustment” has the meaning set forth in *Section 5.10(d)*.

“Historic Tax Credit” means the tax credit available under Section 47 of the Code in connection with the rehabilitation of certain historic structures.

“Historic Tax Credit Approvals” means, collectively, the Part 1 Approval, the Part 2 Approval and the Part 3 Approval.

“Historic Tax Credit Certification Date” means the date on which the Part 1 Approval, Part 2 Approval and Part 3 Approval with respect to the building in the Project have been received by the Partnership.

“Historic Tax Credit Delivery Period” means a five (5) year period during which Historic Tax Credits are allocated to the Limited Partner. The five (5) year period is expected to begin in 2022 and end in 2026, but for purposes of this definition the five (5) year time period shall be deemed automatically to shift if the first year of Historic Tax Credit delivery is not 2022.

“Historic Timing Reduction” means the return of Capital Contributions of the Limited Partner designed to compensate the Limited Partner for the reduced present value of delayed Historic Tax Credits.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Firm Commitment” means that certain commitment letter from HUD whereby HUD agrees to provide mortgage insurance under Section 221(d)(4) of the National Housing Act with respect to the First Mortgage Loan, as amended.

“HUD Working Capital Reserve” means the reserve in the amount of \$243,580 as more particularly described in *Section 5.4(h)(3)* hereof.

“Imputed Underpayment” shall have the meaning assigned to such term in Section 6225 of the Code.

“In Balance” means, during the construction period, and in the Limited Partner’s reasonable discretion, the then undisbursed portion of the Capital Contributions to be disbursed in accordance with this Agreement during the construction period, plus the undisbursed proceeds of



construction period financing, plus Cash Flow available to pay Development Costs as set forth in the Financial Forecasts, any payment made by the General Partner pursuant to *Section 5.4(g)*, or other construction period financing, equals or exceeds the amount necessary to pay all work done and not theretofore paid for or to be done in connection with the completion of the rehabilitation of the Project in accordance with the Plans and Specifications or otherwise to be incurred in connection with completion of the Project. After Construction Completion, “In Balance” means, in the Limited Partner’s reasonable discretion, the then undisbursed portion of the permanent sources contained in the Financial Forecasts equals or exceeds the remaining costs of the Project, including repayment of any construction loans.

“Incentive Leasing Fee” means the non-cumulative fee payable by the Partnership to the General Partner in accordance with the terms and conditions set forth in *Section 5.5(c)*.

“Incentive Leasing Agreement” means the Incentive Leasing Agreement of even date herewith between the Partnership and the General Partner pursuant to which the General Partner is to provide certain supplemental services with respect to the Project.

“Incentive Management Agreement” means the Incentive Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Incentive Management Fee.

“Incentive Management Fee” means the payment made by the Partnership to the General Partner in accordance with the Incentive Management Agreement and in the priority specified in *Section 4.1(a)* hereof.

“Involuntary Event” means, with respect to any Partner any one of the following events: (a) the making of an assignment for the benefit of creditors by the Partner; (b) the filing of a voluntary petition in bankruptcy by the Partner; (c) the adjudication of the Partner as a bankrupt or insolvent; (d) the filing of a petition or answer by the Partner seeking for himself a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule; (e) the seeking, consenting to or acquiescence of the Partner in the appointment of a trustee, receiver, or liquidator of the Partner or of all or any substantial part of the Partner’s properties; (f) the death of any Partner who is a natural person; or (g) the termination of the legal existence of any Partner who is other than a natural person.

“Involuntary Transfer” means any transfer of any Partner’s Partnership Interests effected by operation of law as a result of the occurrence of an Involuntary Event.

“IRS” means the Internal Revenue Service.

“Land” means those eighteen (18) parcels of land currently owned or to be purchased by the Partnership upon which the Project Property is located, as more particularly described on **Appendix V** attached hereto.

“LIHTC Units” means the 78 low income housing units located in the Project.

“Limited Partner” means CREA Pendleton III Apartments, LLC, a Delaware limited liability company, or any other Person who becomes a Substituted Limited Partner for any such

Person pursuant to *Section 8.1* or *Section 8.2*. The term Limited Partner shall not refer to the Special Limited Partner.

“Liquidation Manager” means any Person selected by the Limited Partner.

“Management Agent” means ARCO Management Corp., a New York corporation, or such other management agent that is selected by the General Partner with the Consent of the Special Limited Partner. The Management Agent shall act as property manager for the Project pursuant to a management agreement approved in writing by the Asset Manager.

“Management Agreement” means the management contract or agreement by and between the Partnership and the Management Agent, which has received all Requisite Approvals.

“Management Fee” means the fee payable to the Management Agent, which fee shall not exceed 3.72% of gross collections or such lesser amount required by the State Housing Finance Agency or HUD and no other fees for leasing, accounting or other services shall be paid to the Management Agent without the Consent of the Special Limited Partner. The General Partner shall cause any management agreement between the Partnership and a Management Agent that is Affiliated with the General Partner, Developer, or Guarantor to contain a provision that allows for the deferral of the Management Fee to the payment of any Operating Deficits (the “Deferred Management Fee”). Any portion of the Deferred Management Fee shall accrue without interest and shall be repaid in accordance with *Section 4.1* and *4.2* herein.

“Net Cash from Sales and Refinancings” means, with respect to any Fiscal Year of the Partnership, the cash proceeds from Partnership sales or refinancings reduced by (a) all reasonable costs and expenses incurred by the Partnership in connection with such sale or refinancing, including prepayment fees, and (b) all principal and interest payments and other sums paid on or with respect to any indebtedness of the Partnership other than the Deferred Development Fee Note and amounts treated as loans pursuant to this Partnership Agreement from the General Partner, Developer or Guarantor or any of their respective Affiliates or the Limited Partner. Net Cash from Sales and Refinancing shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with the sale or other disposition of Project Property.

“Nonrecourse Deduction” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations. The amount of Nonrecourse Deductions for any Fiscal Year of the Partnership equals the excess, if any, of the net increase, if any, in the amount of Partnership Minimum Gain during that Fiscal Year reduced (but not below zero) by the aggregate amount of any distributions during that Fiscal Year of proceeds of a Nonrecourse Liability that are allocable to an increase in Partnership Minimum Gain, determined in accordance with Section 1.704-2(c) of the Regulations.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“NPS” means the National Park Service, and its successors.

“OHFA” means the Ohio Housing Finance Agency, a body corporate and politic of the State of Ohio.

“Operating Deficit” means the amount by which Cash Receipts (other than proceeds of any loans to the Partnership and investment earnings on funds on deposit in the reserve fund for replacements and other such reserve or escrow funds or accounts) for a particular period of time (which shall be measured on a monthly basis and funded as necessary during the Operating Deficit Guaranty Period) is exceeded by the sum of all Operating Expenses, including, required deposits into the reserve fund for replacements and reserve accounts, any fees to lenders and/or any applicable mortgage insurance premium payments and all other Partnership obligations or expenditures, excluding payments for construction of the Project, payment of the Asset Management Fee and all other fees payable out of Cash Flow, and fees and other expenses and obligations of the Partnership to be paid from the Capital Contributions of the Limited Partner to the Partnership pursuant to this Partnership Agreement, during the same period of time.

“Operating Deficit Guaranty Period” means the period beginning on Stabilized Operations and ending on the fifth (5<sup>th</sup>) anniversary of the date of Stabilized Operations; *provided, however*, the expiration of the Operating Deficit Guaranty Period shall be conditioned upon (i) funding of the Operating Reserve to the Operating Reserve Amount less any reduction pursuant to *Section 5.4(h)(1)*, (ii) achievement of at least a 1.15 to 1.00 Debt Coverage Ratio for the preceding twelve (12) month period (measured in the aggregate) and projection of the achievement of a 1.10 to 1.00 Debt Coverage Ratio for the balance of the Compliance Period and (iii) the HAP Contract remains in effect.

“Operating Deficit Loans” has the meaning set forth in *Section 5.4(i)* hereof.

“Operating Expenses” means all costs and expenses of any type, properly accruable during a specified Fiscal Year which may be properly charged as operating expenses incidental to the ownership and operating of the Project under standard accounting procedures, including, without limitation, payment of principal and interest on any Partnership indebtedness (other than payments of principal and interest on any loan made pursuant to *Sections 2.6, 5.4(i)* and *5.4(l)* or any Project Loans made to the Partnership the debt service on which is payable solely from Cash Flow or any unpaid Developer Fee), including replacement reserves, the cost of repairs to the Project, amounts allocated to reserves by the General Partner and the payment of any fees other than the Asset Management Fee, the Incentive Management Fee and the Developer Fee. The term Operating Expenses shall not include Development Costs. Operating Expenses payable to Partners or Affiliates of Partners shall be paid after Operating Expenses payable to third parties.

“Operating Reserve” means the reserve amount of \$638,300 to be funded out of the proceeds of the Fifth Installment and other available Project funds at the time of the funding of the Fifth Installment, and thereafter, out of Cash Flow pursuant to *Section 4.1(a)* hereof, plus interest earned thereon, which reserve shall be held for working capital and operating purposes and contingencies, excluding project repairs and replacements which are to be covered by the Replacement Reserve.

“Operating Reserve Account” means the segregated Partnership bank account, established to hold the Operating Reserve, to be established at a financial institution selected at the sole discretion of the Limited Partner; withdrawals from such Operating Reserve Account shall require the signature of the Special Limited Partner.

“Operating Reserve Amount” means \$638,300.

“Opt-Out Election” means action by the Partnership Representative that causes the Partnership to elect out of the Revised Partnership Audit Rules, if such election is available to the Partnership under Section 6221(b) of the Code and Regulations or other guidance issued by the IRS.

“Part 1 Approval” means the approval by NPS of Part 1 pursuant to which NPS has made a determination that each of the buildings comprising the Project is a “certified historic structure” within the meaning of Section 47(c)(3) of the Code.

“Part 2 Approval” means the approval by NPS of Part 2 pursuant to which NPS has made a preliminary determination that the proposed rehabilitation work on the buildings comprising the Project as described in the Plans and Specifications is consistent with the historic character of the district in which buildings comprising the Project are located and satisfies the Interior’s “Standards for Rehabilitation”.

“Part 3 Approval” means the approval by NPS of Part 3 pursuant to which NPS has made a final determination that the completed rehabilitation work on the buildings comprising the Project as completed is consistent with the historic character of the district in which the buildings comprising the Project are located and satisfies the Interior’s “Standards for Rehabilitation.”

“Partner” or “Partners” means, individually or collectively as the context requires, the General Partner, the Limited Partner and/or the Special Limited Partner.

“Partner Minimum Gain” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i) of the Regulations.

“Partner Nonrecourse Debt” has the meaning set forth in Section 1.704-2(b)(4) of the Regulations.

“Partner Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(i)(2) of the Regulations. The amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Fiscal Year equals the net increase during that Fiscal Year in Partner Nonrecourse Debt reduced (but not below zero) by the proceeds of the Partner Nonrecourse Debt distributed during that Fiscal Year to the Partner bearing the Economic Risk of Loss for the Partner Nonrecourse Debt that are both attributable to the Partner Nonrecourse Debt and allocable to an increase in Partner Minimum Gain, as determined in accordance with Section 1.704-2(i)(2) of the Regulations.

“Partnership” means Pendleton Housing Partners, L.P., an Ohio limited partnership.

“Partnership Agreement” or “Agreement” means the Partnership’s Amended and Restated Agreement of Limited Partnership, as the same may be amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto” and “hereunder” refer to this Partnership Agreement as a whole, unless the context otherwise requires.

“Partnership Interest” means the entire ownership interest of a Partner, including, without limitation, the rights and obligations of such Partner under this Partnership Agreement and the Act.

“Partnership Management Agreement” means the Partnership Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Partnership Management Fee.

“Partnership Management Fee” means the fee payable to the General Partner equal to an annual amount of \$7,800, increasing at 3.0% per annum, payable in accordance with the Partnership Management Agreement and *Section 4.1(a)* and *Section 4.2*.

“Partnership Minimum Gain” has the meaning set forth in Section 1.704-2(d) of the Regulations.

“Partnership Property” means all real and personal property acquired by the Partnership and any improvements thereto, and shall include both tangible and intangible property.

“Partnership Representative” has the meaning ascribed in *Section 5.4(d)*.

“Payment Certificate” means a Payment Certificate executed by the General Partner pursuant to which the Capital Contributions will be disbursed.

“Permanent Credit Shortfall” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Credit Shortfall Adjustment” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Loan Shortfall” and “Permanent Loan Shortfall Note” have the meanings set forth in *Section 5.4(l)* hereof.

“Person” means any individual, partnership, corporation, trust or other entity.

“Phase I Reports” means, collectively, the Phase I Environmental Site Assessment Report, Pendleton Apartments, 500, 511, & 513 East 12th Street and 500, 557, & 563 13th Street prepared by Partner Engineering and Science Inc. dated June 21, 2021; the Phase I Environmental Site Assessment Report, Pendleton Apartments, 210, 404, 409-415, & 421 East 13th Street, 430 East 12th Street, and 1207 & 1210 Spring Street prepared by Partner Engineering and Science Inc. dated June 21, 2021; and the Phase I Environmental Site Assessment Report, Pendleton Apartments, 1320 Pendleton Street, 1336 and 1347 Broadway Street prepared by Partner Engineering and Science Inc. dated June 21, 2021.

“PILOT Agreements” means, collectively, the Voluntary Tax Incentive Contribution Agreement for Neighborhood Streetcar Services dated as of August 20, 2021 by and between Cincinnati LLC and the Partnership, providing for payment by the Partnership of an amount equal to 15% of the real estate taxes that would have been paid but for the exemption from real property taxation provided for under the Tax Exemption Agreement, and the Payment in Lieu of Taxes Agreement dated as of August 20, 2021 by and between the Partnership and the Board of Education of the City School District of the City of Cincinnati, providing for payment by the

Partnership of an amount equal to 33% of the real estate taxes that would have been paid but for the exemption from real property taxation provided for under the Tax Exemption Agreement. The PILOT Agreements will be in place for the term of the Tax Exemption Agreement.

“Placed in Service” means, with respect to each building in the Project, (i) when a building in the Project is first placed in a condition or state of readiness and is available for occupancy as evidenced by a certificate of occupancy for at least one unit in each building in the Project or (ii) such date elected by or on behalf of the Partnership, which date may not be earlier than the last day of the month during which the minimum rehabilitation expenditure amount set forth in Code Section 42(e)(3)(A) has been incurred by the Partnership with respect to such building; *provided, however*, that if such certificate or permit is of a temporary nature, the “Placed in Service” shall not be deemed to have occurred unless (x) tenants are permitted to occupy the unit(s) to which such temporary certificate or permit applies, or (y) if applicable, the work remaining to be done is of a nature which would not impair the permanent occupancy of such unit. Notwithstanding the foregoing, a building shall not be deemed to have been Placed in Service if the Project is not placed in service as provided by the Code and IRS guidance.

“Plans and Specifications” mean the plans and specifications for the Project approved by the Special Limited Partner.

“Post-Rehab Rent Letter” means the letter from HUD to Hessel Aluise & O’Leary, P.C. dated August 31, 2020 setting forth post-rehabilitation rents for the Project.

“Prime Rate” means the interest rate announced from time to time by the Wall Street Journal, expressed as a per cent per annum. The “Prime Rate” shall be determined on a daily basis.

“Profits” and “Losses” mean, for each Fiscal Year of the Partnership, an amount equal to the Partnership’s taxable income or loss for such period from all sources, determined in accordance with Section 703(a) of the Code, adjusted in the following manner: (a) the income of the Partnership that is exempt from federal income tax shall be added to such taxable income or loss; (b) any expenditures of the Partnership which are not deductible in computing its taxable income and not properly chargeable to capital account under either Section 705(a)(2)(B) of the Code or the Regulations promulgated under Section 704(b) of the Code shall be subtracted from such taxable income or loss; (c) in the event any Project Property is revalued in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations, then the amount of any adjustment to the value of such Property shall be taken into account as gain or loss from the disposition of such Project Property for purposes of computing Profits or Losses; (d) gain or loss resulting from any disposition of Project Property which has been revalued pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations and with respect to which gain or loss is recognized for Federal income tax purposes shall be computed by reference to the adjusted value of such Project Property, notwithstanding that the adjusted tax basis of such Project Property differs from the adjusted value; and (e) any depreciation, amortization or other cost recovery deductions taken into account in computing such taxable income or loss shall be recomputed based upon the adjusted value of any Project Property which has been revalued in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

“Project Documents” means and includes this Partnership Agreement (and all exhibits hereto), the Construction Contract, the Plans and Specifications, Restrictive Covenant,

Management Agreement, the HAP Contract, the HUD Firm Commitment, the Tax Exemption Agreement, the PILOT Agreements and all instruments delivered to (or required by) the Limited Partner, Project Lenders or the State Housing Finance Agency to the extent not otherwise listed in this definition.

“Project Lender” means the lenders of the Project Loans as set forth in **Appendix IV**.

“Project Loans” means those loans set forth and described on **Appendix IV** hereto the terms of which shall not be modified or amended without the Consent of the Special Limited Partner.

“Projected Tax Credits” means the 30% present value tax credits from the State Housing Finance Agency in an amount equal to \$729,940 for year 2022, \$913,401 for years 2023 through 2031 and \$183,461 for year 2032 (the foregoing amounts represent 99.989% of the total Tax Credits projected for the Partnership). The Projected Tax Credits shall be deemed amended and revised to reflect the Projected Tax Credits calculated in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* and *Section 5.10(b)* of this Partnership Agreement.

“Projected Historic Tax Credits” means the Historic Tax Credits in an amount equal to \$458,934 for years 2022 through 2026. The Projected Historic Tax Credits shall be deemed amended and revised to reflect the Projected Historic Tax Credits calculated in any revised Financial Forecast prepared pursuant to *Section 5.10(d)* and *Section 5.10(e)* of this Partnership Agreement.

“Project Property” or “Project” means the Land currently owned by the Partnership on scattered sites in Cincinnati, Ohio, and the 78-unit multifamily rental housing development for individuals and families and other improvements to be rehabilitated, owned and operated thereon by the Partnership, and known as Pendleton III Apartments.

“Push-Out Election” means an election by the Partnership Representative under Section 6226 of the Code with respect to any Imputed Underpayment(s) identified in a Final Partnership Adjustment for the Partnership.

“Qualified Basis” has the meaning set forth in Section 42(c) of the Code.

“Qualified Occupancy” means initial occupancy of 100% of the LIHTC Units (or 95% of the LIHTC Units provided all applicable Permanent Credit Shortfall Adjustments or Credit Reduction Payments are made) by tenants whose occupancy and leases (including specified rents) qualify such residential units for the Tax Credit. The achievement of Qualified Occupancy shall be confirmed by the Management Agent and certified by the General Partner.

“Qualified Occupancy Date” means January 1, 2022.

“Qualified Rehabilitation Expenditures” or “QREs” shall have the meaning attributed thereto in Section 47(c)(2) of the Code.

“REAC” shall refer to the Real Estate Assessment Center of HUD.

“Recapture Event” means an event, as evidenced by a determination thereof by the Accountants or as a result of a Final Determination, which results in a recapture with respect to all or any portion of the Partnership’s Tax Credits and/or Historic Tax Credits and/or which results in a disallowance of any Tax Credits and/or Historic Tax Credits previously claimed by the Partnership.

“Regulations” means the Federal Income Tax Regulations (including without limitation, Temporary Regulations) promulgated under the Code, as the same may be amended from time to time (including corresponding provisions of successor regulations).

“Replacement Reserve” means the greater of (i) the amount required by the Project Lenders to be reserved by the Partnership, and (ii) \$400 per unit per year, increasing by 3% per year, plus all interest earned on any such amount, funded ratably on a monthly basis, with credit given for any amount funded into any lender controlled replacement reserve, commencing upon the achievement of Stabilized Operations. On the sixth and eleventh anniversary of the completion of construction of the Project, the Special Limited Partner shall have the right to require a physical assessment of the Project Property pursuant to which the amount reserved on a monthly basis may be increased.

“Replacement Reserve Account” means a segregated Partnership bank account established at a bank selected by the Limited Partner to hold the Replacement Reserve, unless required to be held by the First Mortgage Lender.

“Requisite Approvals” means any required approvals of each Lender and Agency to an action proposed to be taken by the Partnership.

“Restrictive Covenant” means the extended low-income housing commitment entered into between the Partnership and the State Housing Finance Agency pursuant to Section 42(h)(6) of the Code.

“Revised Partnership Audit Procedures” means the revised partnership audit rules contained in Subchapter 63C of the Code, as amended by the Bipartisan Budget Act of 2015, P.L. 114-74 and the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, and the Regulations promulgated thereunder.

“Second Installment” has the meaning set forth in **Appendix VIII** hereof.

“Security Agreement” means that certain Security Agreement to be entered into by and among the General Partner, the Partnership and the Limited Partner.

“Seventy-Five Percent Construction Completion” means when seventy-five percent (75%) of the rehabilitation of the Project is completed in accordance with the Plans and Specifications as evidenced by the Application and Certification for Payment on AIA Documents G702 and G703 which are approved by the Special Limited Partner.

“Special Limited Partner” means CREA SLP, LLC, an Indiana limited liability company.



“Specified Expense Line Items” means the actual and substantiated expenses of the Project for property taxes, insurance and utilities. For purposes of real estate taxes, the amount shall be based on the full assessment of the Project following Construction Completion, less any applicable tax abatement.

“Stabilized Operations” means the date upon the latest to occur of (i) Qualified Occupancy by tenants actually paying rents at monthly rates at least equal to 90% of those assumed in the Financial Forecasts for a period of three consecutive months, with the aggregate amount of rents at least equal to 90% of the aggregate rents assumed in the Financial Forecast, (ii) achievement of the Debt Coverage Ratio Requirement for three consecutive months assuming aggregated annualized expenses, and (iii) all conditions in the First Mortgage Loan definition have been satisfied, and (iv) repayment in full of the Bridge Loan.

“Stabilized Operations Date” shall mean February 1, 2023.

“State Designation” means, with respect to the Project Property, collectively, the written determinations required to be received from the State Housing Finance Agency and the Bond Issuer under Sections 42(m)(1)(D) and (m)(2)(D) of the Code in the annual amount of \$940,627 of Tax Credits for the Project Property’s ten-year Credit Period.

“State Housing Finance Agency” means the agency controlling the designation of Low Income Housing Tax Credits and administering the Tax Credits, acting through any authorized representative.

“Substituted Limited Partner” means a Person who is admitted as Limited Partner to the Partnership pursuant to *Section 8.1* or *Section 8.2* in place of and with all the rights of a limited partner under the Partnership Agreement and the Act.

“Tax Credit” or “Credit” means the low income housing tax credit under Section 42 of the Code allocated pursuant to the State Designation and shall not be construed to mean the Historic Tax Credits.

“Tax Exemption Agreement” means the Community Reinvestment Tax Exemption Agreement dated as of August 20, 2021 entered into by and between the City of Cincinnati and the Partnership providing for a full exemption from real property taxation for a period of fifteen (15) years beginning in 2022.

“Third Installment” has the meaning set forth in **Appendix VIII**.

“Timing Reduction” means the return of Capital Contributions of the Limited Partner designed to compensate the Limited Partner for the reduced present value of delayed Tax Credits.

“Title Company” means Chicago Title Insurance Company.

“Upward Adjuster Cap” means ten percent (10%) of the Limited Partner’s total Capital Contributions before taking into account the adjustments pursuant to *Section 5.10(a)(2)*, unless otherwise agreed to by the Special Limited Partner.

“Upward Timing Adjuster Cap” means \$115,000, unless otherwise agreed to by the Special Limited Partner.

“Voluntary Transfer” means any sale, assignment, transfer, pledge, or hypothecation of any Partnership Interests by a Partner, except for an Involuntary Transfer.

“Withdrawing Limited Partner” means Stephen R. Whyte, an individual.

**APPENDIX II**

**Financial Forecasts**

*[attached behind]*



**SOURCE AND USE OF FUNDS**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

SOURCES OF FUNDS						TOTAL	PER UNIT \$	%	
<b>EQUITY</b>									
Federal Low Income Tax Credits @ 87.40%						7,983,124	102,348	33.2%	
Federal Historic Tax Credits @ 80.00%						1,835,737	23,535	7.6%	
Special Limited Partner Contribution						100	1	0.0%	
Managing Partner Contribution						100	1	0.0%	
<b>EQUITY</b>						<b>9,819,061</b>	<b>125,885</b>	<b>40.9%</b>	
<b>HARD PERMANENT FINANCING</b>									
HUD 221(d)(4) @ 2.94% including 0.25% MIP						11,329,000	145,244	47.2%	
HUD Tranche B @ 2.94% including 0.25% MIP						671,000	8,603	2.8%	
HUD Tranche B Taxable @ 2.94% including 0.25% MIP						179,000	2,295	0.7%	
<b>HARD PERMANENT FINANCING</b>						<b>12,179,000</b>	<b>156,141</b>	<b>50.7%</b>	
<b>CASH FLOW FROM OPERATIONS - 50.0%</b>						<b>119,201</b>	<b>1,528</b>	<b>0.5%</b>	
<b>DEFERRED DEVELOPMENT FEES - 46.9%</b>						<b>1,896,725</b>	<b>24,317</b>	<b>7.9%</b>	
<b>TOTAL SOURCES OF FUNDS</b>						<b>24,013,987</b>	<b>307,872</b>	<b>100.0%</b>	
<b>USES OF FUNDS</b>									
		INELIGIBLE COSTS	NEW/REHAB	ELIGIBLE BASIS ACQUISITION	HISTORIC	STATE	TOTAL	PER UNIT \$	%
<b>LAND</b>									
Land Acquisition	Other	490,000	-	-	-	-	490,000	6,282	2.0%
<b>LAND</b>		<b>490,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>490,000</b>	<b>6,282</b>	<b>2.0%</b>
<b>ACQUISITION</b>									
Improvements	Depreciated	-	-	5,210,000	-	-	5,210,000	66,795	21.7%
Title & Closing	Depreciated	-	-	120,000	-	-	120,000	1,538	0.5%
Insurance	Other	29,600	-	-	-	-	29,600	379	0.1%
Legal	Depreciated	-	-	20,000	-	-	20,000	256	0.1%
Survey	Depreciated	-	-	25,000	-	-	25,000	321	0.1%
Tax Impound	Other	94,386	-	-	-	-	94,386	1,210	0.4%
<b>ACQUISITION COSTS</b>		<b>123,986</b>	<b>-</b>	<b>5,375,000</b>	<b>-</b>	<b>-</b>	<b>5,498,986</b>	<b>70,500</b>	<b>22.9%</b>
<b>REHABILITATION</b>									
Hard Costs	Depreciated	-	8,295,689	-	8,295,689	-	8,295,689	106,355	34.5%
Permits and Fees	Depreciated	-	71,268	-	71,268	-	71,268	914	0.3%
Relocation	Depreciated	-	398,000	-	398,000	-	398,000	5,103	1.7%
FFE	Depreciated	-	35,000	-	35,000	-	35,000	449	0.1%
<b>REHABILITATION</b>		<b>-</b>	<b>8,799,957</b>	<b>-</b>	<b>8,799,957</b>	<b>-</b>	<b>8,799,957</b>	<b>112,820</b>	<b>36.6%</b>
<b>CONTRACTOR</b>									
Bonding	Depreciated	-	68,577	-	68,577	-	68,577	879	0.3%
General Conditions	Depreciated	-	497,741	-	497,741	-	497,741	6,381	2.1%
Overhead	Depreciated	-	175,867	-	175,867	-	175,867	2,255	0.7%
Profit	Depreciated	-	497,741	-	497,741	-	497,741	6,381	2.1%
<b>CONTRACTOR</b>		<b>-</b>	<b>1,239,926</b>	<b>-</b>	<b>1,239,926</b>	<b>-</b>	<b>1,239,926</b>	<b>15,896</b>	<b>5.2%</b>
<b>ARCHITECT &amp; ENGINEERING</b>									
Architectural Fees	Depreciated	-	251,741	-	251,741	-	251,741	3,227	1.0%
Design	Depreciated	-	15,000	-	15,000	-	15,000	192	0.1%
Engineering	Depreciated	-	75,000	-	75,000	-	75,000	962	0.3%
<b>ARCHITECT &amp; ENGINEERING</b>		<b>-</b>	<b>341,741</b>	<b>-</b>	<b>341,741</b>	<b>-</b>	<b>341,741</b>	<b>4,381</b>	<b>1.4%</b>
<b>LEGAL AND ACCOUNTING</b>									
Accounting	Depreciated	-	35,000	-	35,000	-	35,000	449	0.1%
<b>LEGAL AND ACCOUNTING</b>		<b>-</b>	<b>35,000</b>	<b>-</b>	<b>35,000</b>	<b>-</b>	<b>35,000</b>	<b>449</b>	<b>0.1%</b>
<b>THIRD PARTY COSTS</b>									
Construction Inspection	Depreciated	-	30,000	-	30,000	-	30,000	385	0.1%
Environmental	Depreciated	-	30,000	-	30,000	-	30,000	385	0.1%
Physical Needs Assessment	Depreciated	-	7,500	-	7,500	-	7,500	96	0.0%
Historical Consultant	Depreciated	-	-	-	90,000	-	90,000	1,154	0.4%
<b>THIRD PARTY</b>		<b>-</b>	<b>67,500</b>	<b>-</b>	<b>157,500</b>	<b>-</b>	<b>157,500</b>	<b>2,019</b>	<b>0.7%</b>
<b>TAX CREDITS</b>									
Reservation Fee	Amortized	186,759	-	-	-	-	186,759	2,394	0.8%
Prepaid CREA Asset Management Fee	Expensed	7,800	-	-	-	-	7,800	100	0.0%
CREA Reimbursement	Other	50,000	-	-	-	-	50,000	641	0.2%
<b>TAX CREDITS</b>		<b>244,559</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>244,559</b>	<b>3,135</b>	<b>1.0%</b>
<b>INTERIM LOAN COSTS</b>									
Legal	Depreciated	-	120,000	-	120,000	-	120,000	1,538	0.5%
<b>INTERIM LOAN COSTS</b>		<b>-</b>	<b>120,000</b>	<b>-</b>	<b>120,000</b>	<b>-</b>	<b>120,000</b>	<b>1,538</b>	<b>0.5%</b>
<b>INTERIM INTEREST (Calculated)</b>									
Eligible - New/Rehab/266	Depreciated	-	78,929	-	78,929	-	78,929	1,012	0.3%
Ineligible	Expensed	58,617	-	-	-	-	58,617	751	0.2%
<b>INTERIM INTEREST (Calculated)</b>		<b>58,617</b>	<b>78,929</b>	<b>-</b>	<b>78,929</b>	<b>-</b>	<b>137,545</b>	<b>1,763</b>	<b>0.6%</b>
<b>PERMANENT LOAN COSTS</b>									
Origination Fees	Amortized	159,290	-	-	-	-	159,290	2,042	0.7%
Underwriting Fees	Amortized	130,000	-	-	-	-	130,000	1,667	0.5%
Buyer's Appraisal + RCS	Amortized	21,000	-	-	-	-	21,000	269	0.1%
Legal	Amortized	102,500	-	-	-	-	102,500	1,314	0.4%
Bond COI	Amortized	382,000	-	-	-	-	382,000	4,897	1.6%
FHA Fees	Amortized	173,872	-	-	-	-	173,872	2,229	0.7%
MIP	Amortized	56,645	-	-	-	-	56,645	726	0.2%
<b>PERMANENT LOAN COSTS</b>		<b>1,025,307</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,025,307</b>	<b>13,145</b>	<b>4.3%</b>
<b>RESERVES</b>									
Operating Deficit	Other	638,300	-	-	-	-	638,300	8,183	2.7%
Working Capital Reserve	Other	243,580	-	-	-	-	243,580	3,123	1.0%
<b>RESERVES</b>		<b>881,880</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>881,880</b>	<b>11,306</b>	<b>3.7%</b>
<b>CONTINGENCY</b>									
Eligible Hard Cost	Depreciated	-	946,704	-	946,704	-	946,704	12,137	3.9%
Eligible Soft Cost	Depreciated	-	50,000	-	-	-	50,000	641	0.2%
<b>CONTINGENCY</b>		<b>-</b>	<b>996,704</b>	<b>-</b>	<b>946,704</b>	<b>-</b>	<b>996,704</b>	<b>12,778</b>	<b>4.2%</b>
<b>DEVELOPER COSTS</b>									
Eligible Acquisition Fee	Depreciated	-	-	1,075,000	-	-	1,075,000	13,782	4.5%
Eligible Developer Fee	Depreciated	-	2,969,882	-	2,969,882	-	2,969,882	38,075	12.4%
<b>DEVELOPER COSTS</b>		<b>-</b>	<b>2,969,882</b>	<b>1,075,000</b>	<b>2,969,882</b>	<b>-</b>	<b>4,044,882</b>	<b>51,857</b>	<b>16.8%</b>
<b>TOTAL USES OF FUNDS</b>		<b>2,824,349</b>	<b>14,649,639</b>	<b>6,450,000</b>	<b>14,689,639</b>	<b>-</b>	<b>24,013,987</b>	<b>307,872</b>	<b>100.0%</b>



**PRO FORMA NET OPERATING INCOME**

Pendleton Housing Partners  
78 Units / Cincinnati, OH

Bedrooms	Bathrooms	Square Feet	Units	Median Income %	Rental Assistance Type	Rental Assistance Overhang	Gross Rent	Utility Allowance	Low Income			Market		Rental Income		
									Maximum	Asking	Advantage	Rent	Advantage	Monthly	Annual	
S	1.0	340	11	60%	Sec. 8	2,866	896		896	975	-8.1%	795	-22.6%	10,725	128,700	
1	1.0	580	12	60%	Sec. 8	4,320	960		960	1,175	-18.3%	910	-29.1%	14,100	169,200	
2	1.0	900	24	60%	Sec. 8	12,840	1,152		1,152	1,575	-26.9%	1,160	-35.8%	37,800	453,600	
3	1.0	1,060	21	60%	Sec. 8	11,550	1,332		1,332	1,800	-26.0%	1,390	-29.5%	37,800	453,600	
4	1.5	1,340	8	60%	Sec. 8	5,160	1,485		1,485	2,000	-25.8%	1,510	-32.5%	16,000	192,000	
5	2.0	1,670	2	60%	Sec. 8	1,580	1,639		1,639	2,300	-28.7%	1,680	-36.9%	4,600	55,200	
2.2	1.1	880	78	60%	100.0%	38,316	1,181	0	1,181	1,552	-23.9%	1,181	-31.4%	121,025	1,452,300	
													Vacancy	5.00%	(6,051)	(72,615)

**NET RENTAL INCOME**

114,974 1,379,685

**OTHER INCOME**

Laundry, Vending, Tenant Charges

Units	Per Unit		Vacancy	Monthly		Annual
	Monthly	Annual		Monthly	Annual	
78	8.33	100	5.00%	(5)	618	7,410

**EFFECTIVE GROSS INCOME**

8.33 (5) 115,591 1,387,095

**OPERATING EXPENSES**

Property Management Fee - EGI (3.72%)  
Property Taxes - Fixed  
Payroll - Variable  
Administrative and Leasing - Variable  
Repairs and Maintenance - Variable  
Grounds Maintenance - Variable  
Utilities - Fixed  
Insurance - Fixed  
**TOTAL OPERATING EXPENSES**

	Per Unit		Total	
	Monthly	Annual	Monthly	Annual
Property Management Fee - EGI (3.72%)	55.13	662	4,300	51,600
Property Taxes - Fixed	204.50	2,454	15,951	191,412
Payroll - Variable	125.00	1,500	9,750	117,000
Administrative and Leasing - Variable	36.50	438	2,847	34,164
Repairs and Maintenance - Variable	63.75	765	4,973	59,670
Grounds Maintenance - Variable	16.67	200	1,300	15,600
Utilities - Fixed	183.33	2,200	14,300	171,600
Insurance - Fixed	49.60	595	3,868	46,422
<b>TOTAL OPERATING EXPENSES</b>	<b>734.47</b>	<b>8,814</b>	<b>57,289</b>	<b>687,468</b>

Replacement Reserves

33.33 400 2,600 31,200

**NET OPERATING INCOME**

58,302 668,427

**HARD DEBT SERVICE**

46,840 562,077

**NET CASH FLOW**

8,863 106,350

**HARD DEBT SERVICE COVERAGE RATIO**

Pro Forma 1.19  
Stabilization 1.21  
End of Compliance 1.36



**NET OPERATING INCOME**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

Leased Period	41.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	
<b>Escalator</b>																					
<b>GROSS RENTAL INCOME</b>	2.00%	505,900	1,214,160	1,481,346	1,510,973	1,541,192	1,572,016	1,603,457	1,635,526	1,668,236	1,701,601	1,735,633	1,770,346	1,805,753	1,841,868	1,878,705	1,916,279	1,954,605	1,993,697	2,033,571	2,074,242
Less Vacancy	5.00%	(25,295)	(60,708)	(74,067)	(75,549)	(77,060)	(78,601)	(80,173)	(81,776)	(83,412)	(85,080)	(86,782)	(88,517)	(90,288)	(92,093)	(93,935)	(95,814)	(97,730)	(99,685)	(101,679)	(103,712)
<b>Net Rental Income</b>		480,605	1,153,452	1,407,279	1,435,424	1,464,133	1,493,415	1,523,284	1,553,749	1,584,824	1,616,521	1,648,851	1,681,828	1,715,465	1,749,774	1,784,770	1,820,465	1,856,874	1,894,012	1,931,892	1,970,530
<b>OTHER INCOME</b>																					
Laundry, Vending, Tenant Charge:	2.00%	3,250	7,800	7,956	8,115	8,277	8,443	8,612	8,784	8,960	9,139	9,322	9,508	9,698	9,892	10,090	10,292	10,498	10,708	10,922	11,140
Less Vacancy	5.00%	(163)	(390)	(398)	(406)	(414)	(422)	(431)	(439)	(448)	(457)	(466)	(475)	(485)	(495)	(505)	(515)	(525)	(535)	(546)	(557)
<b>Net Other Income</b>		3,088	7,410	7,558	7,709	7,864	8,021	8,181	8,345	8,512	8,682	8,856	9,033	9,213	9,398	9,586	9,777	9,973	10,172	10,376	10,583
<b>Effective Gross Income</b>		483,693	1,160,862	1,414,837	1,443,134	1,471,996	1,501,436	1,531,465	1,562,094	1,593,336	1,625,203	1,657,707	1,690,861	1,724,678	1,759,172	1,794,355	1,830,242	1,866,847	1,904,184	1,942,268	1,981,113
<b>OPERATING EXPENSES</b>																					
Property Management Fees - EGI	3.72%	17,993	43,184	52,632	53,685	54,758	55,853	56,970	58,110	59,272	60,458	61,667	62,900	64,158	65,441	66,750	68,085	69,447	70,836	72,252	73,697
Property Taxes - Fixed	3.00%	79,755	191,412	197,154	203,069	209,161	215,436	221,899	228,556	235,413	242,475	249,749	257,242	264,959	272,908	281,095	289,528	298,214	307,160	316,375	325,866
Payroll - Variable	3.00%	48,750	117,000	120,510	124,125	127,849	131,685	135,635	139,704	143,895	148,212	152,658	157,238	161,955	166,814	171,818	176,973	182,282	187,751	193,383	199,185
Administrative and Leasing - Variab	3.00%	14,235	34,164	35,189	36,245	37,332	38,452	39,605	40,794	42,017	43,278	44,576	45,914	47,291	48,710	50,171	51,676	53,226	54,823	56,468	58,162
Repairs and Maintenance - Variab	3.00%	24,863	59,670	61,460	63,304	65,203	67,159	69,174	71,249	73,387	75,588	77,856	80,191	82,597	85,075	87,627	90,256	92,964	95,753	98,625	101,584
Grounds Maintenance - Variable	3.00%	6,500	15,600	16,068	16,550	17,047	17,558	18,085	18,627	19,186	19,762	20,354	20,965	21,594	22,242	22,909	23,596	24,304	25,033	25,784	26,558
Utilities - Fixed	3.00%	71,500	171,600	176,748	182,050	187,512	193,137	198,931	204,899	211,046	217,378	223,899	230,616	237,535	244,661	252,000	259,560	267,347	275,368	283,629	292,138
Insurance - Fixed	3.00%	19,342	46,422	47,814	49,249	50,726	52,248	53,815	55,430	57,093	58,806	60,570	62,387	64,258	66,186	68,172	70,217	72,323	74,493	76,728	79,030
<b>Total Operating Expenses</b>		282,938	679,052	707,576	728,277	749,588	771,528	794,115	817,369	841,309	865,956	891,330	917,453	944,348	972,036	1,000,543	1,029,892	1,060,108	1,091,217	1,123,245	1,156,220
<b>NET OPERATING INCOME - NO RESERVES</b>		200,754	481,810	707,261	714,857	722,408	729,908	737,350	744,725	752,027	759,247	766,377	773,408	780,331	787,135	793,812	800,350	806,739	812,968	819,023	824,894
<b>REPLACEMENT RESERVES - \$400</b>		-	(16,068)	(33,100)	(34,093)	(35,116)	(36,169)	(37,254)	(38,372)	(39,523)	(40,709)	(41,930)	(43,188)	(44,484)	(45,818)	(47,193)	(48,609)	(50,067)	(51,569)	(53,116)	(54,709)
<b>NET OPERATING INCOME - RESERVES</b>		200,754	465,742	674,161	680,764	687,292	693,739	700,095	706,353	712,504	718,538	724,447	730,220	735,847	741,317	746,619	751,742	756,673	761,399	765,907	770,184



**CASH FLOW**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

Leased Period Year	41.7% 1 2021	100.0% 2 2022	100.0% 3 2023	100.0% 4 2024	100.0% 5 2025	100.0% 6 2026	100.0% 7 2027	100.0% 8 2028	100.0% 9 2029	100.0% 10 2030	100.0% 11 2031	100.0% 12 2032	100.0% 13 2033	100.0% 14 2034	100.0% 15 2035	100.0% 16 2036	100.0% 17 2037	100.0% 18 2038	100.0% 19 2039	100.0% 20 2040
<b>CASH FLOW</b>																				
Net Operating Income	200,754	481,810	707,261	714,857	722,408	729,908	737,350	744,725	752,027	759,247	766,377	773,408	780,331	787,135	793,812	800,350	806,739	812,968	819,023	824,894
<b>HARD DEBT SERVICE</b>																				
HUD 221(d)(4)	(101,583)	(320,240)	(490,402)	(489,986)	(489,558)	(489,118)	(488,666)	(488,202)	(487,726)	(487,236)	(486,733)	(486,216)	(485,686)	(485,141)	(484,581)	(484,005)	(483,414)	(482,807)	(482,184)	(481,543)
HUD Tranche B	(6,017)	(21,212)	(55,947)	(55,852)	(55,753)	(55,652)	(55,548)	(55,441)	(55,331)	(55,219)	(55,103)	(54,984)	(54,862)	(54,736)	(54,607)	(54,475)	(54,339)	(54,199)	(54,055)	(53,907)
HUD Tranche B Taxable	(1,605)	(5,659)	(14,925)	(14,899)	(14,873)	(14,846)	(14,818)	(14,790)	(14,760)	(14,730)	(14,700)	(14,668)	(14,635)	(14,602)	(14,567)	(14,532)	(14,496)	(14,459)	(14,421)	(14,382)
<b>TOTAL HARD DEBT SERVICE</b>	<b>(109,205)</b>	<b>(347,111)</b>	<b>(561,275)</b>	<b>(560,737)</b>	<b>(560,184)</b>	<b>(559,616)</b>	<b>(559,032)</b>	<b>(558,433)</b>	<b>(557,817)</b>	<b>(557,185)</b>	<b>(556,535)</b>	<b>(555,868)</b>	<b>(555,183)</b>	<b>(554,478)</b>	<b>(553,755)</b>	<b>(553,012)</b>	<b>(552,269)</b>	<b>(551,516)</b>	<b>(550,754)</b>	<b>(549,983)</b>
Replacement Reserves	-	(16,068)	(33,100)	(34,093)	(35,116)	(36,169)	(37,254)	(38,372)	(39,523)	(40,709)	(41,930)	(43,188)	(44,484)	(45,818)	(47,193)	(48,609)	(50,067)	(51,569)	(53,116)	(54,709)
<b>CASH FLOW TO DEVELOPMENT COSTS</b>	<b>50.0%</b>	<b>(45,775)</b>	<b>(59,316)</b>	<b>(14,111)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>AFTER DEBT SERVICE AND RESERVES</b>	<b>45,775</b>	<b>59,316</b>	<b>98,776</b>	<b>120,027</b>	<b>127,109</b>	<b>134,123</b>	<b>141,063</b>	<b>147,920</b>	<b>154,686</b>	<b>161,353</b>	<b>167,912</b>	<b>174,352</b>	<b>180,664</b>	<b>186,839</b>	<b>192,864</b>	<b>198,730</b>	<b>210,074</b>	<b>278,591</b>	<b>283,723</b>	<b>288,641</b>
CREA Asset Management Fee	7,800	(3,250)	(8,034)	(8,275)	(8,523)	(8,779)	(9,042)	(9,314)	(9,593)	(9,881)	(10,177)	(10,483)	(10,797)	(11,121)	(11,455)	(11,798)	-	-	-	-
Operating Deficit Reserve Release	638,300	-	-	-	-	-	-	-	-	-	-	-	-	-	-	733,709	-	-	-	-
Working Capital Reserve Release	243,580	-	248,476	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Incentive Leasing Fee	50.0%	(22,887)	(152,271)	(11,343)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>DISTRIBUTABLE CASH FLOW</b>	<b>2,266,571</b>	<b>152,271</b>	<b>79,399</b>	<b>111,752</b>	<b>118,585</b>	<b>125,344</b>	<b>132,020</b>	<b>138,606</b>	<b>145,093</b>	<b>151,472</b>	<b>157,734</b>	<b>163,869</b>	<b>169,867</b>	<b>175,718</b>	<b>181,410</b>	<b>920,641</b>	<b>210,074</b>	<b>278,591</b>	<b>283,723</b>	<b>288,641</b>
Deferred Development Fee Payments (2% interest)	(2,266,571)	(152,271)	(79,399)	(111,752)	(118,585)	(125,344)	(132,020)	(138,606)	(145,093)	(151,472)	(157,734)	(163,869)	(169,867)	(175,718)	(181,410)	(240,540)	-	-	-	-
<b>AFTER DEFERRED DEVELOPMENT FEES</b>	<b>-</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>	<b>(0)</b>	<b>0</b>	<b>0</b>	<b>(0)</b>	<b>(0)</b>	<b>0</b>	<b>680,101</b>	<b>210,074</b>	<b>278,591</b>	<b>283,723</b>	<b>288,641</b>
<b>SOFT DEBT SERVICE</b>																				
<b>TOTAL SOFT DEBT SERVICE</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>LEASE UP RESERVE TO OPERATING DEFICITS</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>AVAILABLE FOR FEES</b>																				
Partnership Management Fee	7,800	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	680,101	210,074	278,591	283,723	288,641
<b>AVAILABLE FOR DISTRIBUTIONS</b>	<b>-</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>	<b>(0)</b>	<b>-</b>	<b>-</b>	<b>(0)</b>	<b>(0)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>156,226</b>	<b>283,723</b>	<b>288,641</b>
<b>FEES/TO GENERAL PARTNER</b>	<b>90.00%</b>	<b>-</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>	<b>-</b>	<b>-</b>	<b>(0)</b>	<b>(0)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>156,226</b>	<b>283,723</b>	<b>288,641</b>
Incentive Management Fee	12.00%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(156,226)	(233,072)	(237,734)
General Partner Distributions	-	0	0	0	0	0	0	0	0	0	-	-	0	0	-	-	-	-	(50,651)	(50,907)
<b>TO LIMITED PARTNER</b>																				
Investment Member Distributions	10.00%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>REMAINING CASH FLOW</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>DEBT SERVICE COVERAGE RATIO</b>	<b>-</b>	<b>1.34</b>	<b>1.20</b>	<b>1.21</b>	<b>1.23</b>	<b>1.24</b>	<b>1.25</b>	<b>1.26</b>	<b>1.28</b>	<b>1.29</b>	<b>1.30</b>	<b>1.31</b>	<b>1.33</b>	<b>1.34</b>	<b>1.35</b>	<b>1.36</b>	<b>1.38</b>	<b>1.58</b>	<b>1.59</b>	<b>1.60</b>



**TAXABLE INCOME (LOSS)**

Pendleton Housing Partners  
78 Units / Cincinnati, OH

	Leased Period	41.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
	Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
<b>TAXABLE INCOME</b>																					
Net Operating Income		200,754	481,810	707,261	714,857	722,408	729,908	737,350	744,725	752,027	759,247	766,377	773,408	780,331	787,135	793,812	800,350	806,739	812,968	819,023	824,894
Operating Deficit Interest		-	-	6,383	6,447	6,511	6,576	6,642	6,709	6,776	6,843	6,912	6,981	7,051	7,121	7,193	7,264	-	-	-	-
Replacement Reserve Interest		-	80	327	666	1,019	241	611	995	1,394	1,809	311	740	1,186	1,649	2,131	362	859	1,376	1,913	2,472
Working Capital Reserve Interest		2,436	2,460	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL TAXABLE INCOME</b>		<b>203,190</b>	<b>484,351</b>	<b>713,971</b>	<b>721,970</b>	<b>729,939</b>	<b>736,726</b>	<b>744,602</b>	<b>752,429</b>	<b>760,197</b>	<b>767,900</b>	<b>773,600</b>	<b>781,129</b>	<b>788,567</b>	<b>795,906</b>	<b>803,135</b>	<b>807,977</b>	<b>807,599</b>	<b>814,344</b>	<b>820,937</b>	<b>827,365</b>
<b>PERMANENT INTEREST EXPENSE</b>																					
HUD 221(d)(4)		(33,843)	(166,627)	(329,771)	(324,980)	(320,058)	(315,002)	(309,809)	(304,474)	(298,994)	(293,364)	(287,581)	(281,641)	(275,539)	(269,270)	(262,831)	(256,217)	(249,422)	(242,443)	(235,273)	(227,908)
HUD Tranche B		(2,004)	(9,858)	(18,967)	(17,864)	(16,731)	(15,567)	(14,372)	(13,143)	(11,882)	(10,586)	(9,254)	(7,887)	(6,482)	(5,039)	(3,557)	(2,034)	(554)	-	-	-
HUD Tranche B Taxable		(535)	(2,630)	(5,060)	(4,766)	(4,463)	(4,153)	(3,834)	(3,506)	(3,170)	(2,824)	(2,469)	(2,104)	(1,729)	(1,344)	(949)	(543)	(148)	-	-	-
<b>TOTAL PERMANENT INTEREST EXPENSE</b>		<b>(36,383)</b>	<b>(179,115)</b>	<b>(353,799)</b>	<b>(347,610)</b>	<b>(341,253)</b>	<b>(334,723)</b>	<b>(328,014)</b>	<b>(321,124)</b>	<b>(314,045)</b>	<b>(306,774)</b>	<b>(299,304)</b>	<b>(291,632)</b>	<b>(283,750)</b>	<b>(275,653)</b>	<b>(267,337)</b>	<b>(258,793)</b>	<b>(250,124)</b>	<b>(242,443)</b>	<b>(235,273)</b>	<b>(227,908)</b>
DEFERRED DEVELOPER FEE INTEREST		-	(15,806)	(37,793)	(35,503)	(34,625)	(33,083)	(31,373)	(29,493)	(27,443)	(25,220)	(22,822)	(20,249)	(17,499)	(14,572)	(11,466)	(8,181)	(4,716)	-	-	-
CONSTRUCTION PERIOD INTEREST-CALCULATED		-	(36,680)	(21,937)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>DEPRECIATION</b>																					
	<b>Life</b>																				
Personal Property	5	(27,528)	(493,428)	(1,194,822)	(716,893)	(441,521)	(383,824)	(249,995)	-	-	-	-	-	-	-	-	-	-	-	-	-
Site Work	15	(5,053)	(12,792)	(17,900)	(16,111)	(14,502)	(13,044)	(12,033)	(11,612)	(11,622)	(11,616)	(11,630)	(11,612)	(11,630)	(11,612)	(11,630)	(8,630)	(3,769)	-	-	-
Real Property	30	(77,641)	(308,609)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)	(514,700)
Replacement Reserves	\$400	-	-	-	-	(22,889)	(36,623)	(21,974)	(13,184)	(13,184)	(45,181)	(61,743)	(37,046)	(22,227)	(22,227)	(56,483)	(72,590)	(43,554)	(26,133)	(26,133)	(65,695)
IRC §267 Depreciation Adjustment		20,154	117,511	102,187	97,113	62,115	46,304	24,701	(3,420)	(12,994)	(23,315)	(34,386)	(46,211)	(58,788)	(72,118)	(86,198)	(132,654)	(0)	(0)	(0)	(0)
<b>TOTAL DEPRECIATION</b>		<b>(90,069)</b>	<b>(697,319)</b>	<b>(1,625,234)</b>	<b>(1,150,590)</b>	<b>(931,496)</b>	<b>(901,886)</b>	<b>(774,000)</b>	<b>(542,915)</b>	<b>(552,499)</b>	<b>(594,813)</b>	<b>(622,459)</b>	<b>(609,568)</b>	<b>(607,345)</b>	<b>(620,657)</b>	<b>(669,011)</b>	<b>(728,574)</b>	<b>(562,023)</b>	<b>(540,832)</b>	<b>(540,832)</b>	<b>(580,394)</b>
	<b>Years</b>																				
AMORTIZATION	37.2	(10,357)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(37,307)	(24,856)	(24,856)	(24,856)	(24,856)
<b>TOTAL NON CASH DEDUCTIONS</b>		<b>(100,425)</b>	<b>(734,625)</b>	<b>(1,662,541)</b>	<b>(1,187,897)</b>	<b>(968,803)</b>	<b>(939,192)</b>	<b>(811,306)</b>	<b>(580,222)</b>	<b>(589,806)</b>	<b>(632,119)</b>	<b>(659,765)</b>	<b>(646,875)</b>	<b>(644,651)</b>	<b>(657,964)</b>	<b>(706,317)</b>	<b>(765,881)</b>	<b>(586,879)</b>	<b>(565,688)</b>	<b>(565,688)</b>	<b>(605,250)</b>
EXPENSED ITEMS		(7,800)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>FEES</b>																					
	<b>Cumulative</b>																				
CREA Administration - \$7,800	Yes	-	(3,250)	(8,034)	(8,275)	(8,523)	(8,779)	(9,042)	(9,314)	(9,593)	(9,881)	(10,177)	(10,483)	(10,797)	(11,121)	(11,455)	(11,798)	-	-	-	-
Partnership Management Fee - \$7,800	Yes	-	-	-	-	-	-	-	-	-	-	-	(0)	(0)	-	-	(0)	(140,522)	-	-	-
Incentive Management Fee - 12.00% (EGI)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(156,226)	(233,072)
Incentive Leasing Fee	50.00%	-	(22,887)	(152,271)	(11,343)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL FEES</b>		<b>-</b>	<b>(26,137)</b>	<b>(160,305)</b>	<b>(19,618)</b>	<b>(8,523)</b>	<b>(8,779)</b>	<b>(9,042)</b>	<b>(9,314)</b>	<b>(9,593)</b>	<b>(9,881)</b>	<b>(10,177)</b>	<b>(10,483)</b>	<b>(10,797)</b>	<b>(11,121)</b>	<b>(11,455)</b>	<b>(11,798)</b>	<b>(140,522)</b>	<b>-</b>	<b>(156,226)</b>	<b>(233,072)</b>
<b>TAXABLE INCOME (LOSS)</b>		<b>58,582</b>	<b>(508,013)</b>	<b>(1,522,403)</b>	<b>(868,658)</b>	<b>(623,266)</b>	<b>(579,051)</b>	<b>(435,134)</b>	<b>(187,724)</b>	<b>(180,690)</b>	<b>(206,094)</b>	<b>(218,469)</b>	<b>(188,109)</b>	<b>(168,130)</b>	<b>(163,404)</b>	<b>(193,439)</b>	<b>(236,676)</b>	<b>(174,642)</b>	<b>6,213</b>	<b>(136,251)</b>	<b>(238,865)</b>
<b>TAXABLE INCOME (LOSS) ALLOCATIONS</b>																					
Pendleton Housing Management	0.010%	6	(51)	(152)	(87)	(62)	(58)	(44)	(19)	(18)	(21)	(22)	(19)	(17)	(16)	(19)	(24)	(174,641)	6,213	(136,249)	(238,863)
CREA SLP, LLC	0.001%	1	(5)	(15)	(9)	(6)	(6)	(4)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	0	(1)	(2)
Huntington Fund III	99.989%	58,576	(507,957)	(1,522,235)	(868,562)	(623,197)	(578,987)	(435,086)	(187,703)	(180,670)	(206,071)	(218,445)	(188,088)	(168,112)	(163,386)	(193,418)	(236,650)	-	-	-	-
<b>TAX TO BOOK</b>																					
Add Back: Tax Depreciation		110,223	814,829	1,727,421	1,247,703	993,611	948,190	798,701	539,496	539,506	571,497	588,073	563,357	548,557	548,539	582,812	595,920	562,023	540,832	540,832	580,394
Less: Book Depreciation																					
Personal Property (incl. Replacement Reserves)		(5,735)	(139,073)	(350,801)	(350,801)	(357,477)	(362,246)	(362,246)	(362,246)	(362,246)	(373,501)	(375,805)	(242,468)	(30,739)	(30,739)	(37,296)	(41,979)	(41,979)	(41,979)	(41,979)	(30,724)
Site Improvements		(2,106)	(6,833)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)	(9,840)
Real Property		(64,701)	(241,071)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)	(386,025)
<b>BOOK INCOME (LOSS)</b>		<b>96,263</b>	<b>(80,161)</b>	<b>(541,647)</b>	<b>(367,620)</b>	<b>(382,996)</b>	<b>(388,971)</b>	<b>(394,543)</b>	<b>(406,339)</b>	<b>(399,294)</b>	<b>(403,961)</b>	<b>(402,066)</b>	<b>(263,084)</b>	<b>(46,177)</b>	<b>(41,469)</b>	<b>(43,787)</b>	<b>(78,599)</b>	<b>(50,463)</b>	<b>109,201</b>	<b>(33,262)</b>	<b>(85,059)</b>
<b>BOOK INCOME (LOSS) ALLOCATIONS</b>																					
Pendleton Housing Management	0.010%	10	(8)	(54)	(37)	(38)	(39)	(39)	(41)	(40)	(40)	(40)	(26)	(5)	(4)	(4)	(8)	(50,462)	109,200	(33,262)	(85,058)
CREA SLP, LLC	0.001%	1	(1)	(5)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(3)	(0)	(0)	(0)	(1)	(1)	1	(0)	(1)
Huntington Fund III	99.989%	96,253	(80,152)	(541,588)	(367,580)	(382,954)	(388,928)	(394,499)	(406,294)	(399,251)	(403,917)	(402,022)	(263,055)	(46,172)	(41,465)	(43,782)	(78,591)	-	-	-	-





**TAX CREDIT AND EQUITY CALCULATION**  
**Pendleton Housing Partners**  
**78 Units / Cincinnati, OH**

	<u>NEW / REHAB LOW INCOME</u>	<u>ACQUISITION LOW INCOME</u>	<u>FEDERAL HISTORIC</u>
Eligible Development Costs	11,679,757	5,375,000	11,719,757
<b>Plus:</b>			
Eligible Permanent Interest	251,080		251,080
Eligible Acquisition Fees		1,075,000	
Eligible Development Fees	2,969,882		2,969,882
<b>Less:</b>			
Energy/Historic Credits	(2,294,924)		
Federal Funds/Rebates	-		-
Personal Property			(3,370,369)
Site Work			(95,732)
<b>Eligible Basis</b>	<b>12,605,795</b>	<b>6,450,000</b>	<b>11,474,618</b>
<b>Basis Boost</b>	<b>130%</b>	<b>100%</b>	<b>100%</b>
<b>Total Eligible Basis</b>	<b>16,387,534</b>	<b>6,450,000</b>	<b>11,474,618</b>
<b>Applicable Fraction (78/78)</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>
<b>Qualified Basis</b>	<b>16,387,534</b>	<b>6,450,000</b>	<b>11,474,618</b>
<b>Applicable %</b>	<b>4.00%</b>	<b>4.00%</b>	<b>20.00%</b>
<b>Calculated Annual Tax Credits</b>	<b>655,501</b>	<b>258,000</b>	<b>2,294,924</b>
<b>Annual Tax Credit Reservation</b>	<b>651,949</b>	<b>286,400</b>	<b>2,093,401</b>
<b>Limit to Reservation - No</b>	<b>655,501</b>	<b>258,000</b>	<b>2,294,924</b>
<b>Number of Years Available</b>	<b>10</b>	<b>10</b>	<b>5</b>
<b>Total Tax Credits</b>	<b>6,555,014</b>	<b>2,580,000</b>	<b>2,294,924</b>
<b>Investment Member %</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>
<b>Fund Tax Credit Allocation</b>	<b>6,554,293</b>	<b>2,579,716</b>	<b>2,294,671</b>
<b>Tax Credit Price</b>	<b>\$ 0.8740</b>	<b>\$ 0.8740</b>	<b>\$ 0.8000</b>
<b>Tax Credit Equity</b>	<b>5,728,452</b>	<b>2,254,672</b>	<b>1,835,737</b>
<b>QUALIFIED BASIS CUSHION</b>	<b>\$00 (0.0%)</b>	<b>\$00 (0.0%)</b>	



**LEASE UP AND TAX CREDIT DELIVERY SCHEDULE**  
 Pendleton Housing Partners  
 78 Units / Cincinnati, OH

**KEY DATES**

Admission	August 1, 2021
Rehabilitation Start	September 1, 2021
Rehabilitation Completion	December 1, 2022
Historic Placed in Service	December 1, 2022
Stabilization/Conversion	April 1, 2023
Receipt of Form 8609's	March 1, 2023

**CAPITAL CONTRIBUTIONS & DEVELOPMENT FEES PAYOUT**

Installment	Date	Capital Contribution Pay-In Schedule			Cash Development Fee		
		Condition	%	Amount	Cumulative	Amount	%
First	August 1, 2021	Admission	20.0%	\$ 1,963,772	20.0%	\$ 537,039.2	25.0%
Second	July 1, 2022	75% Complete	20.0%	\$ 1,963,772	40.0%	\$ -	0.0%
Third	December 1, 2022	Completion	15.0%	\$ 1,472,829	55.0%	\$ 537,039.2	25.0%
Fourth	March 1, 2023	Stabilization	33.0%	\$ 3,243,149	88.0%	\$ 537,039.2	25.0%
Fifth	July 1, 2023	8609 Receipt	12.0%	\$ 1,175,339	100.0%	\$ 537,039.2	25.0%
<b>Totals</b>			<b>100.0%</b>	<b>\$ 9,818,861</b>	<b>100.0%</b>	<b>\$ 2,148,157</b>	<b>100.0%</b>

**LEASE UP & CREDIT DELIVERY**

PHYSICAL LEASE UP - 19 BUILDINGS - 78 UNITS						
MONTH	2021		2022		2023	
January	0	0.0%	0	100.0%	0	100.0%
February	0	0.0%	0	100.0%	0	100.0%
March	0	0.0%	0	100.0%	0	100.0%
April	0	0.0%	0	100.0%	0	100.0%
May	0	0.0%	0	100.0%	0	100.0%
June	0	0.0%	0	100.0%	0	100.0%
July	0	0.0%	0	100.0%	0	100.0%
August	78	100.0%	0	100.0%	0	100.0%
September	0	100.0%	0	100.0%	0	100.0%
October	0	100.0%	0	100.0%	0	100.0%
November	0	100.0%	0	100.0%	0	100.0%
December	0	100.0%	0	100.0%	0	100.0%
<b>Totals</b>	<b>78</b>	<b>100.0%</b>	<b>78</b>	<b>100.0%</b>	<b>78</b>	<b>100.0%</b>

Tax Credit Pricing		
Low Income		Historic
Federal	State	Federal
87.40%	0.00%	80.00%

TAX CREDIT LEASE UP - 78 UNITS						
MONTH	2022		2023		2024	
January	60	76.9%	0	100.0%	0	100.0%
February	0	76.9%	0	100.0%	0	100.0%
March	0	76.9%	0	100.0%	0	100.0%
April	0	76.9%	0	100.0%	0	100.0%
May	0	76.9%	0	100.0%	0	100.0%
June	0	76.9%	0	100.0%	0	100.0%
July	0	76.9%	0	100.0%	0	100.0%
August	0	76.9%	0	100.0%	0	100.0%
September	0	76.9%	0	100.0%	0	100.0%
October	5	83.3%	0	100.0%	0	100.0%
November	0	83.3%	0	100.0%	0	100.0%
December	13	100.0%	0	100.0%	0	100.0%
<b>Totals</b>	<b>78</b>	<b>100.0%</b>	<b>78</b>	<b>100.0%</b>	<b>78</b>	<b>100.0%</b>

TAX CREDITS @ 99.9890%			
YEAR	Low Income		Historic
	Federal	State	Federal
2021	-	-	-
2022	729,940	-	458,934
2023	913,401	-	458,934
2024	913,401	-	458,934
2025	913,401	-	458,934
2026	913,401	-	458,934
2027	913,401	-	-
2028	913,401	-	-
2029	913,401	-	-
2030	913,401	-	-
2031	913,401	-	-
2032	183,461	-	-
2033	-	-	-
2034	-	-	-
2035	-	-	-
2036	-	-	-
2037	-	-	-
2038	-	-	-
2039	-	-	-
2040	-	-	-
<b>Totals</b>	<b>9,134,009</b>	<b>-</b>	<b>2,294,671</b>



**FLOW OF FUNDS**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

DEVELOPMENT COSTS (EXCL. DEV FEES)	Cost Type	O/C	Period Year Quarter Month	Admission	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20			
				2021	2021	2021	2021	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2023	2023	2023	2023
				3	3	4	4	1	1	2	2	3	3	4	4	5	5	6	6	7	7	8	8	9	9	10	10
<b>TOTAL</b>				<b>8/1/2021</b>	<b>9/1/2021</b>	<b>10/1/2021</b>	<b>11/1/2021</b>	<b>12/1/2021</b>	<b>1/1/2022</b>	<b>2/1/2022</b>	<b>3/1/2022</b>	<b>4/1/2022</b>	<b>5/1/2022</b>	<b>6/1/2022</b>	<b>7/1/2022</b>	<b>8/1/2022</b>	<b>9/1/2022</b>	<b>10/1/2022</b>	<b>11/1/2022</b>	<b>12/1/2022</b>	<b>1/1/2023</b>	<b>2/1/2023</b>	<b>3/1/2023</b>	<b>4/1/2023</b>			
LAND	TRUE			490,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
ACQUISITION COSTS	TRUE			5,498,986	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
REHABILITATION	TRUE			8,799,957	106,268	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	543,356	-	-	-	-		
NEW CONSTRUCTION	TRUE			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
CONTRACTOR	TRUE			1,239,926	68,577	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209	73,209			
ARCHITECT & ENGINEERING	TRUE			341,741	326,741	938	938	938	938	938	938	938	938	938	938	938	938	938	938	938	938	938	938	938			
LEGAL AND ACCOUNTING	TRUE			35,000	35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
THIRD PARTY	TRUE			157,500	127,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
TAX CREDITS	TRUE			244,559	244,559	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875			
INTERIM LOAN COSTS	TRUE			120,000	120,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
INTERIM INTEREST (CALCULATED)	TRUE			137,545	-	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563	6,563			
PERMANENT LOAN COSTS	TRUE			1,025,307	1,025,307	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
RESERVES	TRUE			881,880	243,580	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
EXPENSES	TRUE			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
CONTINGENCY	TRUE			996,704	-	16,667	16,667	16,667	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823			
DEVELOPER COSTS (EXCL. DEV FEES)	TRUE			-	16,667	16,667	16,667	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823	72,823			
<b>DEVELOPMENT COSTS (EXCL. DEV FEES)</b>	<b>TRUE</b>			<b>19,969,105</b>	<b>8,286,518</b>	<b>636,044</b>	<b>642,607</b>	<b>642,607</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>700,560</b>	<b>703,169</b>	<b>10,968</b>	<b>10,968</b>			
<b>DEVELOPMENT SOURCES (EXCL. DEV FEES)</b>	<b>TRUE</b>			<b>TOTAL</b>	<b>8/1/2021</b>	<b>9/1/2021</b>	<b>10/1/2021</b>	<b>11/1/2021</b>	<b>12/1/2021</b>	<b>1/1/2022</b>	<b>2/1/2022</b>	<b>3/1/2022</b>	<b>4/1/2022</b>	<b>5/1/2022</b>	<b>6/1/2022</b>	<b>7/1/2022</b>	<b>8/1/2022</b>	<b>9/1/2022</b>	<b>10/1/2022</b>	<b>11/1/2022</b>	<b>12/1/2022</b>	<b>1/1/2023</b>	<b>2/1/2023</b>	<b>3/1/2023</b>	<b>4/1/2023</b>		
CASH FLOW FROM OPERATIONS - 50%	TRUE			119,201	9,155	9,155	9,155	9,155	9,155	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,943	4,704	4,704	4,704			
GRANTS	TRUE			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
OTHER	TRUE			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
PERMANENT FINANCING (EXCL. DEV FEES)	TRUE			12,179,000	12,179,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
EQUITY (EXCL. DEV FEES)	TRUE			7,670,904	1,426,933	-	-	-	-	-	-	-	-	-	1,963,772	-	-	-	-	-	-	935,790	-	2,706,110			
INTERIM FUNDING	TRUE			2,924,879	-	1,750,000	-	-	-	-	-	-	-	-	-	-	-	-	479,262	695,618	-	-	-	-			
INTERIM REPAYMENT	TRUE			(2,924,879)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(2,924,879)			
<b>DEVELOPMENT SOURCES (EXCL. DEV FEES)</b>	<b>TRUE</b>			<b>19,969,105</b>	<b>13,615,088</b>	<b>2,386,044</b>	<b>642,607</b>	<b>642,607</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>2,300,962</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>698,763</b>	<b>700,560</b>	<b>940,733</b>	<b>10,968</b>	<b>10,968</b>			
<b>EQUITY/PROCEEDS FOR DEV FEE (Investment Member)</b>	<b>TRUE</b>			<b>2,148,157</b>	<b>537,039</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>537,039</b>	<b>-</b>	<b>-</b>	<b>537,039</b>			
<b>DEVELOPMENT FEES PAID</b>	<b>TRUE</b>			<b>2,148,157</b>	<b>537,039</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>537,039</b>	<b>-</b>	<b>-</b>	<b>537,039</b>			
<b>MONTHLY NET SURPLUS (DEFICIT)</b>	<b>FALSE</b>			<b>0</b>	<b>5,328,570</b>	<b>1,750,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,602,199</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>237,564</b>	<b>-</b>	<b>0</b>			
<b>CUMULATIVE NET SURPLUS (SHORTFALL)</b>	<b>TRUE</b>			<b>0</b>	<b>5,328,570</b>	<b>6,451,681</b>	<b>5,818,229</b>	<b>5,184,777</b>	<b>4,495,169</b>	<b>3,801,349</b>	<b>3,107,528</b>	<b>2,413,708</b>	<b>1,719,888</b>	<b>1,026,068</b>	<b>332,247</b>	<b>1,602,199</b>	<b>908,379</b>	<b>214,559</b>	<b>-</b>	<b>-</b>	<b>237,564</b>	<b>231,299</b>	<b>225,034</b>	<b>0</b>			
Total Development Fees				4,044,882	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
Development Fees Paid				2,148,157	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
DEFERRED DEVELOPMENT FEE	TRUE			1,896,725	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			



**FLOW OF FUNDS**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

	Cost Type	OK?	TOTAL	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40			
				Year	2023	2023	2023	2023	2023	2023	2023	2023	2023	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	
				Quarter	2	2	3	3	3	4	4	4	1	1	1	1	2	2	2	3	3	3	4	4	4	4
				Month	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	12	12
<b>DEVELOPMENT COSTS (EXCL. DEV FEES)</b>																										
LAND	TRUE		490,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
ACQUISITION COSTS	TRUE		5,498,986	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
REHABILITATION	TRUE		8,799,957	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
NEW CONSTRUCTION	TRUE		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
CONTRACTOR	TRUE		1,239,926	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
ARCHITECT & ENGINEERING	TRUE		341,741	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
LEGAL AND ACCOUNTING	TRUE		35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
THIRD PARTY	TRUE		157,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
TAX CREDITS	TRUE		244,559	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
INTERIM LOAN COSTS	TRUE		120,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
INTERIM INTEREST (CALCULATED)	TRUE		137,545	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
PERMANENT LOAN COSTS	TRUE		1,025,307	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
RESERVES	TRUE		881,880	-	-	638,300	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
EXPENSES	TRUE		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
CONTINGENCY	TRUE		996,704	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
DEVELOPER COSTS (EXCL. DEV FEES)	TRUE		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>DEVELOPMENT COSTS (EXCL. DEV FEES)</b>	<b>TRUE</b>		<b>19,969,105</b>	-	-	<b>638,300</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>DEVELOPMENT SOURCES (EXCL. DEV FEES)</b>																										
CASH FLOW FROM OPERATIONS - 50%	TRUE		119,201	5/1/2023	6/1/2023	7/1/2023	8/1/2023	9/1/2023	10/1/2023	11/1/2023	12/1/2023	1/1/2024	2/1/2024	3/1/2024	4/1/2024	5/1/2024	6/1/2024	7/1/2024	8/1/2024	9/1/2024	10/1/2024	11/1/2024	12/1/2024			
GRANTS	TRUE		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
OTHER	TRUE		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
PERMANENT FINANCING (EXCL. DEV FEES)			12,179,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
EQUITY (EXCL. DEV FEES)	TRUE		7,679,904	-	-	638,300	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
INTERIM FUNDING	TRUE		2,924,879	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
INTERIM REPAYMENT	TRUE		(2,924,879)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>DEVELOPMENT SOURCES (EXCL. DEV FEES)</b>	<b>TRUE</b>		<b>19,969,105</b>	-	-	<b>638,300</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>EQUITY/PROCEEDS FOR DEV FEE (Investment Member)</b>	<b>TRUE</b>		<b>2,148,157</b>	-	-	<b>537,039</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>DEVELOPMENT FEES PAID</b>	<b>TRUE</b>		<b>2,148,157</b>	-	-	<b>537,039</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>MONTHLY NET SURPLUS (DEFICIT)</b>	<b>FALSE</b>		<b>0</b>	-	-	<b>0</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
<b>CUMULATIVE NET SURPLUS (SHORTFALL)</b>	<b>TRUE</b>		<b>0</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Total Development Fees			4,044,882																							
Development Fees Paid			2,148,157																							
DEFERRED DEVELOPMENT FEE	TRUE		1,896,725																							



**CAPITAL ACCOUNTS AND MINIMUM GAIN ANALYSIS**  
Pendleton Housing Partners  
78 Units / Cincinnati, OH

Leased Period	41.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%		
Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2040	2040	2040	2040	2040	
<b>Investment Member - 99.989%</b>	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	99.989%	
Beginning Capital Account	-	2,022,348	2,656,320	5,552,573	4,684,011	4,060,813	3,481,826	3,046,740	2,859,037	2,678,367	2,472,296	2,253,852	2,065,763	1,897,651	1,734,265	1,540,847	1,304,197	1,304,197	1,304,197	1,304,197	1,304,197	1,304,197	1,304,197	1,304,197	1,304,197	
Capital Contributions	1,963,772	3,436,601	4,418,488	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	(2,294,671)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	58,576	(507,957)	(1,522,235)	(868,562)	(623,197)	(578,987)	(435,086)	(187,703)	(180,670)	(206,071)	(218,445)	(188,088)	(168,112)	(163,386)	(193,418)	(236,650)	-	-	-	-	-	-	-	-	-	
Cash Distributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>2,022,348</b>	<b>2,656,320</b>	<b>5,552,573</b>	<b>4,684,011</b>	<b>4,060,813</b>	<b>3,481,826</b>	<b>3,046,740</b>	<b>2,859,037</b>	<b>2,678,367</b>	<b>2,472,296</b>	<b>2,253,852</b>	<b>2,065,763</b>	<b>1,897,651</b>	<b>1,734,265</b>	<b>1,540,847</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	<b>1,304,197</b>	
<b>Investment Member- 0.000%</b>	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	
Beginning Capital Account	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Capital Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Cash Distributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>General Partner(s) - 0.010%</b>	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	0.010%	
Beginning Capital Account	-	106	(174)	(327)	(414)	(476)	(534)	(577)	(596)	(614)	(635)	(657)	(675)	(692)	(709)	(728)	(728)	(540,331)	(925,045)	(1,041,197)	(1,228,097)	(1,228,097)	(1,228,097)	(1,228,097)	(1,228,097)	
Capital Contributions	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	(229)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	6	(51)	(152)	(87)	(62)	(58)	(44)	(19)	(18)	(21)	(22)	(19)	(17)	(16)	(19)	(24)	(174,641)	6,213	(136,249)	(238,863)	(238,863)	(238,863)	(238,863)	(238,863)		
Cash Distributions	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	(539,579)	(210,074)	(122,365)	(50,651)	(50,907)	(50,907)	(50,907)	(50,907)		
<b>Ending Capital Account</b>	<b>106</b>	<b>(174)</b>	<b>(327)</b>	<b>(414)</b>	<b>(476)</b>	<b>(534)</b>	<b>(577)</b>	<b>(596)</b>	<b>(614)</b>	<b>(635)</b>	<b>(657)</b>	<b>(675)</b>	<b>(692)</b>	<b>(709)</b>	<b>(728)</b>	<b>(728)</b>	<b>(540,331)</b>	<b>(925,045)</b>	<b>(1,041,197)</b>	<b>(1,228,097)</b>	<b>(1,228,097)</b>	<b>(1,228,097)</b>	<b>(1,228,097)</b>	<b>(1,228,097)</b>	<b>(1,228,097)</b>	
<b>Special Limited Partner - 0.001%</b>	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.001%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	
Beginning Capital Account	-	101	73	57	49	42	37	32	30	29	27	24	22	21	19	17	15	15	13	13	13	12	12	12	12	
Capital Contributions	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	(23)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	1	(5)	(15)	(9)	(6)	(6)	(4)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(1)	(2)	(2)	(2)	
Cash Distributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>101</b>	<b>73</b>	<b>57</b>	<b>49</b>	<b>42</b>	<b>37</b>	<b>32</b>	<b>30</b>	<b>29</b>	<b>27</b>	<b>24</b>	<b>22</b>	<b>21</b>	<b>19</b>	<b>17</b>	<b>15</b>	<b>13</b>	<b>13</b>	<b>13</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	
<b>Capital Accounts</b>	2,083,173	2,095,981	2,670,329	5,552,304	4,683,646	4,060,380	3,481,329	3,046,195	2,858,471	2,677,782	2,471,688	2,253,219	2,065,110	1,896,980	1,733,576	1,540,137	1,304,137	763,882	379,166	263,014	76,112	(213,661)	(213,661)	(213,661)	(213,661)	
Unpaid Capital Contributions	7,855,089	7,855,089	4,418,488	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Outstanding Debt	12,179,000	12,206,301	12,189,262	11,981,786	11,768,660	11,549,729	11,324,836	11,093,818	10,856,508	10,612,736	10,362,324	10,105,093	9,840,857	9,569,424	9,290,599	9,004,180	8,709,961	8,413,486	8,173,122	7,926,211	7,672,575	7,418,940	7,165,304	6,911,668	6,658,032	
Plus Accrued Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Grants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Other Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Deferred Development Fees	1,896,725	1,889,644	1,775,166	1,731,270	1,654,143	1,568,641	1,474,669	1,372,142	1,260,979	1,141,105	1,012,455	874,969	728,600	573,304	409,053	235,824	-	-	-	-	-	-	-	-	-	
<b>Total Capital and Debt</b>	<b>24,013,987</b>	<b>24,047,015</b>	<b>21,053,245</b>	<b>19,265,360</b>	<b>18,106,449</b>	<b>17,178,749</b>	<b>16,280,834</b>	<b>15,512,155</b>	<b>14,975,958</b>	<b>14,431,622</b>	<b>13,846,467</b>	<b>13,233,282</b>	<b>12,634,567</b>	<b>12,039,708</b>	<b>11,433,227</b>	<b>10,780,141</b>	<b>9,473,843</b>	<b>8,792,652</b>	<b>8,436,136</b>	<b>8,002,323</b>	<b>7,458,915</b>	<b>6,915,000</b>	<b>6,371,085</b>	<b>5,827,170</b>	<b>5,292,255</b>	
<b>Assets</b>	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986	613,986
Land	21,189,639	21,199,694	18,358,408	16,733,173	15,582,583	14,765,533	13,863,647	13,089,647	12,546,732	11,994,232	11,592,366	10,969,907	10,360,339	9,752,994	9,132,337	8,690,172	7,961,597	7,399,574	6,858,742	6,317,910	6,000,658	5,683,406	5,366,154	5,048,902	4,731,650	
Depreciable Assets	-	-	16,148	49,575	84,335	6,023	42,434	80,299	119,666	160,583	10,155	52,396	96,324	141,994	189,641	11,939	60,910	111,837	164,782	219,811	13,850	-	-	-	-	
Replacement Reserves	881,880	884,316	638,300	644,683	651,130	657,641	664,218	670,860	684,344	691,187	698,099	705,080	712,131	719,252	726,445	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Other Reserves	1,212,066	1,201,709	1,164,403	1,127,096	1,089,790	1,052,483	1,015,177	977,870	940,564	903,257	865,951	828,644	791,338	754,031	716,725	679,418	642,111	617,256	592,400	567,544	542,688	517,832	492,976	468,120	443,264	
Amortized Assets	66,417	97,310	212,000	46,846	34,625	33,083	31,373	29,493	27,443	25,220	22,822	20,249	17,499	14,572	11,466	8,181	145,288	(0)	156,226	237,072	237,734	237,734	237,734	237,734	237,734	
Expensed Assets	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	
Other Assets (Syndication Costs)	24,013,987	24,047,015	21,053,245	19,265,360	18,106,449	17,178,749	16,280,834	15,512,155	14,975,958	14,431,622	13,846,467	13,233,282	12,634,567	12,039,708	11,433,227	10,780,141	9,473,843	8,792,652	8,436,135	8,002,323						

### APPENDIX III

The following provisions shall be applicable to a purchase of the Project Property by the General Partner or its designee pursuant to *Section 8.5* or *Section 8.6* (“Purchaser”):

**Section 1. Purchase Price.** The purchase price shall be payable in full at the closing by wire transfer or certified or cashier’s check or, with any required consents of mortgage holders, by the Purchaser assuming the liabilities secured by mortgages and other liens on the Project Property and paying the balance of the purchase price, if any, in cash, wire transfer or by certified or cashier’s check at the closing.

**Section 2. Property Purchased.** The property (“Premises”) to be transferred to Purchaser shall include the following:

(a) The land upon which the Project Property is situated and all buildings, structures, improvements, fixtures and appurtenances located on or related to the land and buildings (collectively, “Real Property”).

(b) All tangible and intangible (other than cash balances and receivables) personal property (“Personal Property”) affixed to or used in connection with the Project Property and which are owned by the Partnership and used in connection with the operation and maintenance of the Project Property.

(c) All tenant leases, along with all tenant security deposits then held by or for the Partnership (and Purchaser shall accept the assignment of the tenant leases and tenant security deposits and shall assume the leases and landlord’s obligations thereunder). No adjustment on the Purchase Price shall be made in the event of any shortage in the tenant security deposit amounts.

**Section 3. Survey.** Purchaser shall be responsible for obtaining and paying for any evidence of title (title search, title commitment, etc.) and survey desired by Purchaser.

**Section 4. Taxes and Assessments; Prorations; Adjustments.**

(a) Partnership shall also credit on the purchase price all unpaid real estate taxes and special assessments not yet due for the years prior to the closing and a portion of such taxes and special assessments for the year of closing prorated through the date of closing. The proration of the special assessments and undetermined real estate taxes shall be based upon a 365-day year and on the most recently available assessment information and tax rate and valuation.

(b) Partnership shall pay for or arrange with Purchaser for billing and service cut-offs (or credit against the purchase price) of water, sewer, street cleaning and any other charges accrued through the day of closing and utilities which are not payable by tenants of the Project Property.

(c) All rents payable by the tenants of the Project Property shall be prorated through the date of closing and the purchase price shall be adjusted accordingly. All advance rents and security deposits paid by such tenants shall be credited against the purchase price.

(d) Purchaser agrees to use its best efforts to collect on behalf of Partnership any tenant rents that were due prior to the month of closing and, if Purchaser receives any such rents, deliver the same to Partnership.

(e) The following adjustments shall also be made on the basis of a 365 day year or 30 day calendar month as appropriate and as of the day of closing: (i) amounts paid or due or owing under any contracts or agreements relating to the operation or maintenance of the Project Property. All amounts that are owed by Partnership for the period prior to the month of closing under any item set forth in this paragraph shall be paid by Partnership.

(f) Partnership shall be obligated to and shall deliver only those tenant security deposits and other tenant funds held by or for Partnership at closing that were received by Partnership.

(g) Replacement reserves and other reserves or cash accounts maintained by the Partnership shall be transferred to the Purchaser, if required by a lender or other third party controlling the account and the Purchase Price payable by Purchaser shall be correspondingly increased.

(h) The adjustments and prorations described in this Section 4 shall increase or decrease the amount due (but not below the liabilities secured by liens on the Project Property) from the Purchaser at closing. The provisions of this Section 4 shall survive the closing.

**Section 5. Transfer of Real Property.** Partnership shall convey and transfer merchantable title to the Real Property by a recordable Limited Warranty Deed. Purchaser shall cause, at Partnership's cost, the Limited Warranty Deed to contain all necessary state, county and city approvals. Purchaser shall pay transfer fees and taxes associated with the conveyance of the Real Property to Purchaser.

**Section 6. Personal Property.** The Personal Property shall be conveyed by a special warranty bill of sale to Purchaser at closing.

**Section 7. As Is Condition.** The Premises shall be conveyed at closing in an "as is" condition. No express or implied warranties are given or made with respect to the condition of the same and Purchaser shall acknowledge that it is its obligation to inspect the Premises and accept the same in its "as is" condition at closing. No express or implied warranties are or will be given or made by Partnership.

**Section 8. Condemnation, Casualty.**

(a) **Condemnation.** Purchaser shall not be obligated to perform under *Sections 8.5 or 8.6* (as the case may be) of the Partnership Agreement if on the closing date any portion of the Real Property has been condemned or sold under threat of condemnation, or is the subject of a condemnation proceeding, in which event this Partnership Agreement shall terminate unless Purchaser elects to close. If Purchaser so elects to close, it shall be entitled to receive any condemnation proceeds payable with respect to the Real Property or Personal Property to Partnership.

(b) Casualty.

(i) Purchaser shall not be obligated to perform under its purchase obligation if on or before the closing date any portion of the Real Property has been damaged by fire, storm, flood or other casualty, the damage of which is in excess of \$1,000,000. In the case of such damage in an amount less than \$1,000,000, or if Purchaser elects not to terminate its purchase obligation in the event of such damage in an amount in excess of \$1,000,000, Purchaser shall be entitled to the proceeds of the insurance policy payable as a result of such damage and Purchaser's purchase obligation shall remain in full force and effect without any purchase price adjustment.

(ii) If the amount of such damage is in excess of \$1,000,000, Purchaser may elect by written notice to the Limited Partner, given no later than 30 days after receipt of Purchaser's notice of the casualty, not to terminate its purchase obligation.

**Section 9. Closing; Possession.**

(a) As used in this Appendix, references to "a closing," the "closing" or "day of closing" shall mean a closing of the purchase and sale contemplated by *Sections 8.5 or 8.6*, as the case may be, of the Partnership Agreement and this Addendum. Purchaser shall be entitled to possession of the Premises on the day of closing, subject to rights of tenants.

(b) Unless the Purchaser's election to purchase is terminated pursuant to the provisions hereof, the closing shall occur within 30 Business Days after the determination of the purchase price, with all prorations and adjustments made as of the date of closing. The closing shall be at a place and time in the county and state where the Real Property is located as designated by the General Partner.

**Section 10. Partnership to Retain Receivables.** Purchaser shall agree that Partnership shall retain all of the rights to any and all receivables and claims for recovery related to any transaction or matter prior to the date of closing. Purchaser shall cooperate, at no cost to Purchaser, in the collection of any such receivable or the prosecution of any such claim and, if collection thereof is received by Purchaser, the proceeds thereof will be promptly remitted to Partnership.

**Section 11. Subordination to Project Loans.** The option to purchase the Project pursuant to Section 8.5 will be subject and subordinate in all respect to the terms and conditions of the Project Loans encumbering the Project including (a) the lien, security interest and rights granted by the loan documents evidencing the First Mortgage Loan, (b) all advances or charges made or accruing under or secured by the loan documents evidencing the First Mortgage Loan and (c) any extensions, modifications or renewals of the indebtedness secured by the loan documents evidencing the First Mortgage Loan.



## APPENDIX IV

### Loan Terms Summary

- A. \$12,000,000 “**Bond Loan**” from the Bond Issuer
1. Type of Loan: Construction (from proceeds of the Bonds)
  2. Amount: \$12,000,000
  3. Lender: Bond Issuer
  4. Interest Rate: 0.26% per annum
  5. Payments: Interest payments each February 1 and August 1 with the principal due upon maturity (or Initial Mandatory Tender Date of March 1, 2023 if no remarketing occurs)
  6. Minimum Amortization Period: N/A
  7. Maturity Date: March 1, 2025 (with an Initial Mandatory Tender Date of March 1, 2023)
  8. Priority Position: Cash-collateralized by the First Mortgage Loan
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: Fully funded at closing
- B. \$12,179,000 “**First Mortgage Loan**” from the First Mortgage Lender
1. Type of Loan: Construction and Permanent
  2. Amount: \$12,179,000
  3. Lender: First Mortgage Lender
  4. Fixed Interest Rate: 2.69% per annum plus 0.25% mortgage insurance premium
  5. Payments: Interest only payable monthly commencing on September 1, 2021 through November 1, 2022. Thereafter, consecutive monthly installments of principal and interest in the amount of \$46,645.03 shall be payable beginning November 1, 2022 through December 1, 2032. Thereafter, commencing on December 1, 2032, consecutive monthly installments of principal and interest in the amount of \$38,558.44 (which monthly installment amounts do not include the mortgage insurance premium)
  6. Minimum Amortization Period: “Tranche A” of \$11,329,000: 480 months  
“Tranche B” of \$850,000: 180 months
  7. Maturity Date: November 1, 2062
  8. Priority Position: First
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: In draws commencing at closing to cash-collateralize the Bond Loan

C. \$3,000,000 "**Bridge Loan**" from the Bridge Lender

1. Type of Loan: Construction
2. Amount: \$3,000,000
3. Lender: Bridge Lender
4. Fixed Interest Rate: 4.50% per annum
5. Payments: Monthly payments of interest with a balloon payment upon maturity
6. Minimum Amortization Period: N/A
7. Maturity Date: earliest of (i) date Limited Partner makes the Fourth Installment and (ii) April 30, 2023 subject to an extension to October 31, 2023
8. Priority Position: Unsecured
9. Nonrecourse/Recourse: Nonrecourse
10. When Funded?: Initial advance at closing

**APPENDIX V**

**Legal Description of the Land**

**PARCEL A:**

210 East 13TH STREET  
Auditor's Parcel Nos. 75-4-44

Situate in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being part of Out Lot 21 as recorded in Deed Book E2 at Page 66 of the Hamilton County Recorder's Office and being more particularly described as follows:

Beginning at a point 118.00 feet East of the Northeast corner of Main Street and East 13th Street; Thence from said place of beginning North 15 deg. 40' West, 100.07 feet (100' more or less Deed) South line of Bland Alley;  
Thence North 74 deg. 20' East, 18.00 feet along the South line of Bland Alley;  
Thence South 15 deg. 40' East, 100.07 feet (100 feet more or less Deed) to the North line of East 13th Street;  
Thence South 74 deg. 20' West, 18.00 feet along the North line of East 13th Street; to the place of beginning.

Containing 0.0414 acres of land and being subject to all easements of record.

**PARCEL B AND C:**

402-404 East 13TH STREET  
Auditor's Parcel Nos. 75-2-37 and 75-2-38

Situated in the City of Cincinnati, County of Hamilton and State of Ohio:  
And being more particularly described as follows:

Being Lots #2 and #3 in the Subdivision of that certain tract of land bounded on the East by Spring Street, South by Woodward Street, West by Broadway and North by a line running parallel with Woodward Street, said Lots #2 and #3 being each 22 feet and fronting on the North side of Woodward Street by a uniform depth of 55 feet and 9 inches.

Containing 0.0563 acres of land and being subject to all legal easements of record.

Also being more certainly known as Lots 2 and 3 of Dewey Subdivision, Storrs Township, Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio.

**PARCEL D:**

409 East 13TH STREET  
Auditor's Parcel No. 75-3-9

Situated in Section 18, Town 4, Fractional Range 1, in the City of Cincinnati, County of Hamilton, State of Ohio, and described as follows:

All of Lot #10 as designated in Subdivision of lots situated between Broadway, Woodward and Pendleton Streets and the Cincinnati, Lebanon and Springfield Turnpike, the plat of which is recorded in Book 128, Pages 592 and 593, Hamilton County, Ohio Records, said lot fronting 23 feet and 1 inch on the South side of East 13th (formerly Woodward) Street, and running Southwardly 88 feet 6 inches, the Southwest corner of said Lot forming an angle so that the West line of said lot measures only 84 1/2 feet.

Containing 0.0468 acres of land and being subject to all legal highways and easements of record.

PARCEL E, F AND G:

411-413-415 East 13TH STREET (415 East 13th Street a/k/a/ 1207 Spring Street)  
Auditor's Parcel Nos. 75-3-10; 75-3-11 and 75-3-12

Situate in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being lots 11, 12 and 13 of Joseph Ferneding's Subdivision as recorded in Deed Book 128, Page 592 and being more particularly described as follows:

Beginning at the Southwest corner of Spring Street and East 13th Street;  
Thence from said place of beginning, South 15 deg. 59' 30" East along the West line of Spring Street, 88.50 feet;  
Thence South 74 deg. 03' West, 63.14 feet (63.10 feet plat);  
Thence North 15 deg. 59' 30" West, 88.50 feet to a point in the South line of East 13th Street;  
Thence North 74 deg. 03' East along the South line of East 13th Street. 63.14 (63.10 Plat) to the place of beginning. Containing 0.1282 acres of land and being subject to all legal highways and easements of record.

Subject to a Party Wall Agreement, set forth in Deed Book 179, Page 18, Hamilton County, Ohio, Recorder's Office.

PARCEL H:

421 East 13TH STREET  
Auditor's Parcel No. 75-3-57

Situated in Section 30, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being Lot 16 of Joseph Ferneding's Subdivision as recorded in Plat Book 1, Page 216 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at the intersection of the Easterly line of Spring Street and the Southerly line of East 13th Street;  
Thence North 74 deg. 04' 30" East, 45.14 feet (45.00 Plat) to the Northwest corner of said lot 16 and the real place of beginning;  
Thence along East 13th Street, North 74 deg. 04' 30" East. 20.06 feet (20.00 feet plat);  
Thence South 15 deg. 59' 30" East, 88.50 feet to the Northerly line of Levering Alley; having a right of way 10.00 feet;

Thence along said Northerly line South 74 deg. 04' 30" West, 20.06 (20.00 feet plat);  
Thence North 15 deg. 59' 30" West, 88.50 feet to the place of beginning.

Containing 0.0408 acres of land and subject to all legal highways and easements of record.

PARCEL I:

430 East 12TH STREET  
Auditor's Parcel No. 75-3-70

Situated in Section 30, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being all of Lot 25 of Joseph Ferneding's Subdivision as recorded in Plat Book 1, Page 216 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at the intersection of the Westerly line of Pendleton Street and the Northerly line of East 12th Street;

Thence South 74 deg. 04' 30" West, 41.72 feet (41.40' Plat) to the Southeast corner of said Lot 25 and the real place of beginning;

Thence along East 12th Street, South 74 deg. 04' 30" West, 20.06 feet (20.00 feet plat);

Thence North 15 deg. 59' 30" West, 88.85 feet (88.50 Plat) to the Southerly line of Bolivar Alley, having a right of way of 10.00 feet;

Thence along said Southerly line North 74 deg. 04' 30" East, 20.06 feet (20.00 feet plat);

Thence South 15 deg. 59' 30" East, 88.85 feet (88.50 Plat) to the place of beginning.

Containing 0.049 acres of land and subject to all legal highways and easements of record.

PARCEL J AND K:

511-513 East 12TH STREET  
Auditor's Parcel Nos. 75-3-143 and 75-3-144

Situated in Section 18, Town 4, Fractional Range 1, Storrs Township, in the City of Cincinnati, County of Hamilton and being more particularly described as follows:

Beginning at a point 120.00 feet East of the Northeast corner of Pendleton Street and East 12th Street;

Thence from said point of beginning, North 73 deg. 58' East 50.03 feet along the South line of East 12th Street;

Thence South 15 deg. 58' East, 104.66 feet;

Thence South 54 deg. 37' West, 53.05 feet;

Thence North 15 deg. 58' West, 122.23 feet to the South line of East 12th Street and the place of beginning.

Containing 0.1303 acres of land and being subject to all legal highways and easements of record.

PARCEL L:

557-563 East 13TH STREET (a/k/a 610-612 Reading Road)

Auditor's Parcel No. 75-3-119

Situate in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, being more particularly described as follows:

Beginning at a point in the South side of 13th Street, formerly Woodward Street, North 73 deg. 58' East, 700.84 feet East of Pendleton Street;  
Thence South on a line parallel with Pendleton Street South 16 deg. 12' 30" East, 85.15 feet to a 10 foot alley, known as Bolivar Alley, formerly Anna Alley;  
Thence East along the North side of said alley, North 73 deg. 58' East, 30.74 feet to the West side of Reading Road, formerly Hunt Street;  
Thence Northwardly along the West side of Reading Road, North 22 deg. 06' 30" East, 108.26 feet, to the Southwest corner of Reading Road and 13th Street;  
Thence West along the South side of 13th Street, South 73 deg. 58' West, 97.87 feet to the place of beginning.

PARCEL M:

1210 SPRING STREET

Auditor's Parcel No. 75-3-55

Situated in Section 30, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio and being all of Lot 14 of Joseph Ferneding's Subdivision and being more particularly described as follows:

Beginning at the intersection of the Easterly line of Spring Street and the Southerly line of East 13th Street, said point being the Northwest corner of said Lot 14;  
Thence along the Southerly line of East 13th Street, North 74 deg. 04' 30" East, 25.08 feet (25.00 feet Plat);  
Thence South 15 deg. 59' 30" East, 88.50 feet to the Northerly line of Levering Alley, having a right of way of 10.00 feet;  
Thence along said Northerly line, South 74 deg. 04' 30" West, 25.08 feet (25.00 feet Plat) to the Easterly line of Spring Street;  
Thence along said Easterly line, North 15 deg. 59' 30" West, 88.50 feet to the place of beginning.

Containing 0.0510 acres of land and being subject to all legal highways and easements of record.

PARCEL N:

1320 PENDLETON STREET

Auditor's Parcel No. 75-2-126

Situate in the City of Cincinnati, County of Hamilton and State of Ohio, to-wit:

Beginning at a point on the East side of Pendleton Street 25 feet North of the Northeast corner of Pendleton and Dandridge Street;  
Thence running East on a line parallel with the North line of Dandridge Street, 100 feet;  
Thence running North on a line parallel with Pendleton Street, 25 feet;

Thence running West on a line parallel with the North line of Dandridge Street, 100 feet to the East line of Pendleton Street;  
Thence running South along the East line of Pendleton Street, 25 feet to the place of beginning.

Containing 0.0574 acres of land and being subject to all easements of record.

PARCEL O:

1336-38 BROADWAY STREET

Auditor's Parcel No. 75-2-13 (75-2-14 consolidated)

Situate lying, and being in the City of Cincinnati, Hamilton County, Ohio, to-wit:

Beginning at a point in the East line of Broadway, 278 1/2 feet South of original line of Liberty Street;

Thence running along the said East line of Broadway 40 feet to a point and from said two points running back Eastwardly, between parallel lines (168.10 more or less Deed) feet to the West line of Spring Street, and being the same premises conveyed to the grantor herein by Deed recorded in Deed Book 1840, Page 471 of the Deed Records of Hamilton County, Ohio.

Containing 0.1544 acres of land and being subject to all easements of record.

PARCEL P:

1347 BROADWAY STREET

Auditor's Parcel No. 75-1-139

Situated in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio and being known as Lot 4 of Abigail Lewis Subdivision as recorded in Plat Book 2, Page 75 of the Hamilton County Recorder's Office and being more particularly described as follows:

Beginning at a point in the West line of Broadway Avenue, 75.10 feet (75 feet Plat) North of the Northwest corner of Broadway Street and East 14th Street;

Thence from said place of beginning, North 76 deg. 00' West, 90.55 feet (90 feet Plat) to a point in the East line of Bunker Alley;

Thence along the East line of Bunker Alley North 14 deg. 06' East 25.03 feet (25.00 Plat);

Thence South 76 deg. 00' East, 90.55 (90.00 feet Plat) to a point in the West line of Broadway Street;

Thence along the West line of Broadway Street, 25.03 feet (25.00 feet Plat) to the place of beginning.

Containing 0.0520 acres of land and being subject to all legal easements of record.

PARCEL Q:

500-502 East 12TH STREET

Auditor's Parcel No. 75-3-120

Situated in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Beginning at the intersection of the Northerly line of East 12th Street and the Easterly line of Pendleton Street;

Thence North 16 deg. 12' 30" West, 85.15 feet along the Easterly line of Pendleton Street to the Southerly line of Bolivar Alley, having a right of way of 10.00 feet;

Thence along the Southerly line of said alley North 73 deg. 58' East, 39.84 feet;

Thence South 16 deg. 12' 30" East, 85.15 feet to the Northerly line of East 12th Street;

Thence along said Northerly line South 73 deg. 58' West, 39.84 feet to the place of beginning.

PARCEL R:

500 East 13TH STREET

Auditor's Parcel No. 75-2-173

Situated in the City of Cincinnati, County of Hamilton and State of Ohio:

And being more particularly described as follows:

Beginning at the Northeast corner of East 13th and Pendleton Street; running,

Thence Eastwardly with the North line of East 13th Street and 25 feet to a point;

Thence Northwardly parallel with Pendleton Street 92 1/2 feet to a 15 foot alley;

Thence Westwardly with the South line of said alley 25 feet to Pendleton Street;

Thence Southwardly along the East line of Pendleton Street to the place of beginning.



## APPENDIX VI

### Insurance Requirements

The following are construction and permanent insurance requirements. This outline describes the minimum types and amounts of insurance that are satisfactory to CREA, LLC, its affiliates, and/or its assigns. *Special Limited Partner reserves the right to modify the insurance requirements as conditions warrant with written notice to the General Partner.*

#### **Carrier Requirement**

- All carriers must be A- or better rated according to A.M. Best Company, with a Financial Size Category rating by A.M. Best of VIII or higher.

#### **Policy Requirements**

- Reference the name of the insured property (“Property”), including address, in the “description section” of the insurance certificate.
- Policies shall provide CREA entities a 30-day prior written notice of cancellation, termination, or reduction of coverage except for non-payment of premium where ten (10) days' notice shall be given.
- Insurance binders, certificates, and policies must name the identified CREA entity shown below as an additional insured.
- Copies of policies, binders and certificates shall be provided to the SLP and Integratec Services, LLC (to crea@integratec.biz) no later than the effective date of the policy.

#### **Additional Insured / Loss Payee or Certificate Holder, as applicable:**

- For all policies, the following entities should be named:
  - Investor Limited Partner – its successors and/or its assigns
  - CREA SLP, LLC – its successors and/or its assigns

#### **Construction Period Coverage**

Prior to the commencement of any construction activities, the General Partner shall obtain (or cause to be obtained by the general contractor or the architect, as applicable) the following coverages, which shall remain in force until receipt of the certificates of occupancy for all buildings:

<b>Partnership</b>	
<b>Builder’s All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
Named Insured:	Partnership
Loss Payee:	See Page 1
Form:	Completed Value (Non-Reporting Form)
Perils:	Special form “All Risk” policy, including wind/hail, subject to the policy terms, conditions

<b>Builder's All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
	and exclusions
	Flood and Earthquake exclusion acceptable (unless specifically required by the Special Limited Partner. Wind coverage must be provided.
Valuation:	Replacement Cost including the existing structure(s), if applicable
Deductible:	Not to exceed \$25,000 per occurrence
	If located in Tier One Wind County, wind/hail deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000
Endorsements/Extensions:	Permission to Occupy Endorsement Renovations Coverage Endorsement Loss of Rents (12 Months)/Delay in Start Up. Projects located in Tier 1 hurricane counties must maintain Loss of Rent coverage equal to 18 months of rental income. Soft Costs Ordinance and Law Coverage (Mandatory if zoned legal non-conforming) Waiver of Co-insurance or Agreed Value Endorsement Transit Must Obtain Property Insurance on a Building by Building Basis once the Certificate of Occupancy is received for that building <ul style="list-style-type: none"> <li>NOTE: Limited Partner and Special Limited Partner to be associated in the adjustment of any claim</li> </ul>

<b>Commercial General Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible	No greater than \$10,000	
	Primary and Non Contributory	

<b>Umbrella Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
Deductible/SIR:	\$10,000	

<b>Boiler and Machinery (if property has centralized equipment, boilers or elevators)</b>	
Named Insured:	Partnership
Loss Payee/Additional Interest:	See Page 1

Form:	Comprehensive Form
Limit:	Total Building Value
Valuation:	Replacement Cost
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement

**Additional Coverages, if applicable**

Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone “A” or “V” – or any sub-designation of Zone “A” or “V”).</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril. If excluded, a separate wind/hail policy must be provided at the same limits as the property or builders risk with 12 month’s rents. For properties in Tier 1 hurricane counties, coverage must be 18 months of rental income.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>

**Worker’s Compensation and Employer’s Liability\***

If the Partnership has employee(s), provide evidence of Workers Compensation as applicable by law.		
Certificate Holder:	See Page 1	
Worker’s Compensation:	Per accident	\$1,000,000
Employer’s Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000

**Automobile**

If Partnership owns vehicles:		
Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

**General Contractor**

**Commercial General Liability**

Additional Insured:	See Page 1
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Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per project" basis	
Deductible	No greater than \$10,000	

<b>Umbrella Liability</b>		
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
	Note: umbrella to be written on a following form	

<b>Worker's Compensation, Employer's Liability, and Automobile Liability</b>		
Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

<b>Architect</b>
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<b>Professional (Errors &amp; Omissions) Liability – including contractual liability coverage</b>		
Certificate Holder:	See Page 1	
Minimum Limit:	\$1,000,000 (please supply Certificate of Insurance on an ACORD Form 25)	

<b>Property Management Company</b>	
Note: Coverage required for both construction and permanent phases	

<b>Commercial General Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

<b>Umbrella Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

<b>Worker's Compensation, Employer's Liability, Automobile Liability, and Fidelity Bond</b>		
Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Fidelity Bond/Crime	(6) months of projects gross rental receipts. Coverage must be in full effect at time of occupancy. Coverage to be held by the General Partner or the Property Management Company	
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

### Permanent Phase Coverage

<b>Partnership</b>
--------------------

<b>Property Insurance</b>	
Named Insured:	Partnership
Loss Payee:	See Page 1
Form:	ISO Special Form (please supply Evidence of Property Insurance, ACORD form 27, 28 or other "Special" or "All Risk" form); Copies of Policies to follow within 90 day of acceptance

Limits:	Building (Real Property):	100% of Insurable Value (Replacement Cost)
	Contents (Personal Property):	Replacement Cost Coverage
	Business Interruption:	12 months of gross rental income with extra expense. This is to include tenant's gross rents as well as any subsidies. For properties in Tier 1 hurricane counties Business Interruption must extend to 18 months of gross rental income with extra expense.
Valuation:	Replacement Cost	
Deductible:	\$25,000 per occurrence If located in Tier 1 Wind County - wind deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000	
Extensions:	Vacancy/Un-occupancy up to 60 days Ordinance and Law (Mandatory if zoned legal non-conforming) Waiver of Coinsurance/Agreed Amount Endorsement	

Commercial General Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

Umbrella Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

Boiler and Machinery (if property has centralized equipment, boilers or elevators)		
Named Insured:	Partnership	
Loss Payee/Additional Interest:	See Page 1	
Form:	Comprehensive Form	
Limit:	Total Building Value	
Valuation:	Repair and/or Replacement	
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement	

<b>Additional Coverages, if applicable</b>	
Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone “A” or “V” – or any sub-designation of Zone “A” or “V”).</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>
Automobile:	<ul style="list-style-type: none"> <li>• Only required if an automobile is used as part of the property’s operations (i.e. transportation van) and titled in the name of the Partnership/Borrower. Liability in the amount of \$1,000,000 is required (per accident combined single limit).</li> </ul>

## APPENDIX VII

### Replacement Reserve Items

Carpet (not approved for regular unit turnover)  
Resilient Flooring (not approved for regular unit turnover)  
Kitchen Cabinet/Vanity  
Bath Vanity/Toilets/Tubs/Showers  
Countertop  
Oven, range & hood  
Refrigerator  
Dishwasher  
Disposal  
Microwave  
HVAC  
Washer Dryer  
Hot Water Heater  
Swimming Pool  
Exterior Paint  
Tuckpointing  
Roofs  
Basketball Courts  
Drives/Parking/Sidewalks  
Signage  
Gutters and downspouts  
Electrical  
Plumbing  
Irrigation  
Exterior wall cladding  
Fascia  
Tot lot  
Exterior lighting  
Fencing  
Carports  
Windows  
Stairs and landings  
Entry doors  
Computer lab, and the related furniture, fixtures and equipment  
Solar Panels  
Ceiling Fans  
Emergency Generator  
Elevators  
Security Cameras  
Fire Protection Equipment



**APPENDIX VIII**

**CAPITAL CONTRIBUTIONS**

I. First Installment

**\$1,963,772 (“First Installment”) shall be paid on later of execution of this Agreement and the satisfaction of the following conditions precedent, as determined by the Limited Partner:**

Required Delivery/Event	Notes
1. Admission of the Limited Partner and Special Limited Partner to the Partnership	
2. Receipt of the HAP Contract	
3. Closing and initial funding of the Bond Loan, the First Mortgage Loan and the Bridge Loan	
4. Receipt of a commitment for the First Mortgage Loan	
5. Receipt by the Limited Partner of Building Permits, or satisfactory evidence that the Building Permits will be available upon payment of fees.	
6. Receipt by the Limited Partner of the Part 1 Approval and the Part 2 Approval	
7. Receipt by the Limited Partner of such other documentation as it may reasonably request to satisfy its due diligence requirements including, without limitation, those documents listed on the Limited Partner’s closing checklist, a copy of which has been previously delivered to the General Partner.	

The General Partner shall cause the Partnership to reimburse the Special Limited Partner for due diligence, legal work and issuance of the tax opinion in the amount of \$50,000 from the proceeds of the First Installment. The balance of the proceeds of the First Installment shall be used to pay a portion of the Developer Fee in accordance with the Development Agreement, to fund the HUD Working Capital Reserve and for Development Costs.

II. Second Installment

**\$1,963,772 (“Second Installment”) shall be paid on a draw basis beginning on the later of July 1, 2022 and/or 10 Business Days after the occurrence and satisfaction of the Second Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Second Installment shall be used for Development Costs.

PENDLETON HOUSING PARTNERS, L.P.

SECOND INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PENDLETON HOUSING PARTNERS, L.P., an Ohio limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Second Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Second Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of final title policy with a current date down endorsement, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Seventy-Five Percent Construction Completion.	
4.	Receipt by the Special Limited Partner of the Architect’s certification reasonably acceptable to the Special Limited Partner that the Project is seventy-five percent (75%) completed according to the Plans and Specifications.	
5.	Site visit by the Inspecting SLP Representative and receipt and approval of all documents listed in <i>Section 5.4(a)</i> .	
6.	If not previously provided, confirmation of extension of the completion deadline set forth in the Tax Exemption Agreement to a date on or after the Construction Completion Date.	
7.	Satisfaction of the conditions to the payment of the First Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PENDLETON HOUSING MANAGEMENT,  
LLC, an Ohio limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

III. Third Installment

**\$1,472,829 (“Third Installment”) shall be paid on a draw basis beginning on the later of October 1, 2022 and/or 10 Business Days after the occurrence and satisfaction of the Third Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Third Installment shall be used first to repay the Bridge Loan (if required by the Bridge Lender) and for Development Costs and then to pay a portion of the Developer Fee in accordance with the Development Agreement.

PENDLETON HOUSING PARTNERS, L.P.

THIRD INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PENDLETON HOUSING PARTNERS, L.P., an Ohio limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Third Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Third Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of final title policy with a current date down endorsement, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Construction Completion (except for those bonds or liens permitted pursuant to <i>Section 5.3(p)</i> ).	
4.	Receipt of a lien waiver from the General Contractor with respect to the work performed and/or materials supplied through the date of Construction Completion for which it has been paid to date.	
5.	Certification from the Architect that the Project is completed according to the Plans and Specifications.	
6.	Receipt of a copy of the permanent certificates of occupancy for the Project or evidence satisfactory to the Limited Partner that the City has inspected and approved the rehabilitation in lieu of permanent certificates of occupancy.	
7.	Site visit by the Inspecting SLP Representative and receipt and approval of all documents listed in <i>Section 5.4(a)</i> .	

8.	Receipt by the Special Limited Partner of the Accountants' draft Cost Certification.	
9.	Satisfactory evidence that all environmental remediation of the Project has been completed in accordance with Appendix XI and the requirements of any governmental authority having jurisdiction over the Project.	
10	Post-construction testing shall be completed in order to confirm whether a mitigation system needs to be activated prior to occupancy. If testing results indicate levels at or above 4.0 pCi/L then a mitigation system needs to be activated and subsequent testing is required to confirm the testing results indicate levels are not at or above 4.0 pCi/L.	All required actions (if any) with respect to radon will be performed by a licensed third party consultant.
11	Evidence that (a) the preparer of the Cost Segregation Study has been engaged by the Partnership, (b) work has commenced on the Cost Segregation Study and (c) the final Cost Segregation Study will be delivered in accordance with Section 5.3(xx).	
12	Satisfaction of the conditions to the payment of the Second Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_ day of \_\_\_\_\_, 20\_\_.

PENDLETON HOUSING MANAGEMENT,  
LLC, an Ohio limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

IV. Fourth Installment

**\$3,243,149 (“Fourth Installment”) shall be paid on the later of January 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Fourth Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

In accordance with the terms contained herein, Cost Savings shall be distributed concurrently with the funding of the Fourth Installment. The proceeds of the Fourth Installment shall be used to first to repay the Bridge Loan and for Development Costs and then to pay a portion of the Developer Fee in accordance with the Development Agreement.



PENDLETON HOUSING PARTNERS, L.P.

FOURTH INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PENDLETON HOUSING PARTNERS, L.P., an Ohio limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Fourth Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Fourth Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Payment in full of the Bond Loan and full funding of the First Mortgage Loan occurred.	
4.	Achievement of Stabilized Operations, which may occur simultaneously.	
5.	Achievement of Final Endorsement, which may occur simultaneously, and receipt of a copy of the then current rent schedule approved by HUD for the HAP Contract.	
6.	Special Limited Partner’s receipt and approval of a third party review of all the first year’s tenant files for compliance with the Code and State Housing Finance Agency requirements.	
7.	Receipt by the Special Limited Partner of the Accountants’ final Cost Certification and final 50% Test.	

8.	Receipt by the Special Limited Partner of all amendments, approved by NPS, to the Part 2 Approval.	
9.	Post-rehabilitation rents are in place under the HAP Contract in an amount not less than the post-rehabilitation rents set forth in the Post-Rehab Rent Letter.	
10.	Receipt by the Special Limited Partner of the Part 3 Approval.	
11.	Satisfaction of the conditions to the payment of the Third Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PENDLETON HOUSING MANAGEMENT,  
LLC, an Ohio limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

V. Fifth Installment

**\$1,175,339 (“Fifth Installment”) shall be paid on the later of July 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Fifth Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Fifth Installment shall be used for Development Costs, to fund all required reserves and to pay a portion of the Developer Fee in accordance with the Development Agreement.

PENDLETON HOUSING PARTNERS, L.P.

FIFTH INSTALLMENT PAYMENT CERTIFICATE

The General Partner of PENDLETON HOUSING PARTNERS, L.P., an Ohio limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Fifth Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Fifth Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Receipt of IRS Forms 8609 in form reasonably satisfactory to the Special Limited Partner (which shall include the fully executed Part I & Part II) for all buildings in the Project.	
4.	Receipt by the Special Limited Partner of a properly recorded Restrictive Covenant.	
5.	Receipt by the Special Limited Partner of the executed Deferred Development Fee Note if any Development Amount will be deferred pursuant to the Development Agreement.	
6.	All reserves required under the Partnership Agreement have been funded in full, which may be contemporaneous with the funding of the Fifth Installment.	
7.	Satisfaction of the conditions to the payment of the Fourth Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PENDLETON HOUSING MANAGEMENT,  
LLC, an Ohio limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

**APPENDIX IX**

**POST-CLOSING ITEMS**

Description of Item

Notice to Proceed

Required Date of Delivery

Within 10 days of the closing date

Confirmation of extension of the completion  
deadline set forth in the Tax Exemption  
Agreement to a date on or after the Construction  
Completion Date

Within 60 days of the closing date

**APPENDIX X**

**REPORTING REQUIREMENTS**

<b>Report Name</b>	<b>Description</b>	<b>Deadline</b>
<b>Draw Request</b>	Until the Project has attained Construction Completion, a construction draw request report including: (i) percentage of construction complete; and (ii) cumulative and proposed change orders.	Due monthly
<b>Monthly Leasing Reports</b>	<p>a. Until the date the Project has attained 100% Qualified Occupancy, on a lease-up status report on a building by building basis, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>b. If, after achieving 100% Qualified Occupancy, a Project fails to maintain occupancy levels above 90% for the previous quarter, the General Partner must provide a monthly occupancy report, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>c. In addition to the qualified occupancy report, upon request of the Special Limited Partner or the General Partner shall provide a statement of income and expenses, an operating statement, an accounts receivable and accounts payable aging report, and a check register or a detailed general ledger.</p>	Due by the 10 <sup>th</sup> of each calendar month
<b>First Year Tenant Files</b>	<p>Upon initial lease-up of the Project, each unit's first year tenant file shall be provided electronically to the Special Limited Partner showing compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit Project, per the state allocation agency and within the meaning of Section 42(h) of the Code.</p> <p>Files will be sent by the Special Limited Partner to a third-party reviewer, unless the Special Limited Partner has approved file review by a third-party hired by the</p>	<p>-The greater of the first <b>10% or 5 files</b> are due as they become qualified -At <b>50%</b> qualified occupancy all available files are due -At 100% qualified occupancy, the balance of the files</p>



	Partnership. The Partnership shall budget and pay no more than \$30 per unit in order to hire an inspector.	are due within 30 days of the date of 100% qualified occupancy
<b>Quarterly Status Report and Financials</b>	<p>Commencing with the start of lease-up, a report showing financial and operational performance, and including:</p> <ol style="list-style-type: none"> <li>1. Signed quarterly status report – all questions answered</li> <li>2. Copies of Real Estate Tax Bill and evidence of payment</li> <li>3. A Rent Roll for each month in the quarter</li> <li>4. Income Statement (Excel format is preferred)</li> <li>5. Balance Sheet (Excel format is preferred)</li> <li>6. Operating and Replacement Reserve Bank Statements for all 3 months of the quarter</li> <li>7. Detailed explanation of any variances from the budget submitted to CREA</li> <li>8. Any other pertinent information regarding the Partnership and its activities as may be requested by the Special Limited Partner, including any correspondence between the Partnership and the IRS or State Agency, such as the State Designation or IRS Form(s) 8609)</li> </ol>	<p>Due within 30 days of the end of quarter</p> <p>Quarter 1: April 30  Quarter 2: July 31  Quarter 3: October 31  Quarter 4: January 31</p>
<b>Monthly Financial Statements *</b>	<p>A copy of the prior month's financial operations of the property, including DSCR calculation before reserves.</p> <p><i>*Required only if Project did not maintain above 1.0 DSCR with replacement reserves for the previous quarter</i></p>	Due by the 20 of each month

<p><b>Audited Financials and Tax Returns (with K-1's) of Partnership</b></p>	<p>At the Partnership's expense:</p> <ol style="list-style-type: none"> <li>1. Copies of tax returns and reports</li> <li>2. Financial statements on a year over year comparable basis for the Partnership (consisting of a balance sheet as of the end of such calendar year, statements of income, and each Partner's equity and changes in financial position) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of the Accountant</li> <li>3. Cash flow statement</li> <li>4. Statement and reconciliation of each Partner's Capital Account</li> <li>5. Statement of the tax basis for the computation of the Tax Credits and depreciation deductions</li> <li>6. Depreciation schedules for current and all future years, and a depreciation worksheet, which shall serve to establish material allocations of assets for cost recovery purposes.</li> </ol> <p>Financial statements shall identify: (i) computation of Cash Flow verified by the Accountant; (ii) distributions from Cash Flow from operations during the calendar year; (iii) distributions from Cash Flow generated during a prior period which had been held as reserves; (iv) Net Cash from Sales and Refinancings; (v) costs reimbursed to the General Partner or affiliates; (vi) reserves; (vii) borrowed monies, loans and additional Capital Contributions; (viii) Affiliate transactions; (ix) transactions outside of the ordinary course of business with a description thereof; (x) a copy of the HUD REAC Score, if applicable, (xi) acceptable annual Tax Credit training compliance certifications regarding the Management Agent; and (xii) any other information reasonably requested by the Special Limited Partner.</p>	<p>Financial Statements and Tax Returns:</p> <p>Drafts – within 45 days after year end</p> <p>Final versions– within 90 days after year end</p> <p>Engagement Letter with CPA 30 days before year end</p>
<p><b>Audited Financials and Tax Returns of General Partner and Guarantor(s)</b></p>	<p>Current audited financial statements of the General Partner and each Guarantor entity, [personal financial statements may be unaudited] and, upon written request of the Special Limited Partner, updates to the same on a quarterly basis.</p>	<p>Within 120 days after year end</p>

<b>Operating Budget</b>	<p>Projected annual operating and capital improvements budget (in excel format), including:</p> <ul style="list-style-type: none"> <li>a. Account numbers for the following year;</li> <li>b. Separate breakout of projected rents used for rental income in the budget;</li> <li>c. Proposed repairs and capital improvements for the upcoming year;</li> <li>d. Proposed use of Replacement Reserves; and</li> <li>e. Any other information reasonably requested by the Special Limited Partner.</li> </ul>	Due at least 30 days prior to year end
<b>Annual Owner Certification, and Periodic Reports required by Project Lenders or Governmental Agencies</b>	<ul style="list-style-type: none"> <li>a. Certification by the General Partner to the Limited Partner, in the same scope and manner that it is required to certify to the applicable State Housing Finance Agency, that the Partnership is in compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code.</li> <li>b. A copy of any periodic financial or performance report (and supporting documents) provided by the Partnership to any federal, state, or local governmental agency or to any Partnership lender, or any compliance monitoring report provided to the State Housing Finance Agency, such as the State Designation and IRS Form(s) 8609.</li> </ul>	At the same time such certification or report is filed with the Governmental Agency or delivered to the Project Lender
<b>Permanent Insurance Policies</b>	See Appendix VI Insurance Requirements	

**APPENDIX XI**

**ENVIRONMENTAL CLEARANCE LETTER**

*[attached behind]*

July 26, 2021

CREA, LLC

Attn: Mr. Matthew Kesmodel

30 South Meridian Street, Suite 400

Indianapolis, Indiana 46204

**RE: DESKTOP REVIEW OF ENVIRONMENTAL DOCUMENT(S)**

**PENDLETON III APARTMENTS**

**SCATTERED SITES**

**CINCINNATI, OHIO 45202**

**PROJECT NO. RH21-2823**

At the request of CREA, LLC (CREA), Nova Group, GBC (Nova) has reviewed the following document(s) and information regarding the above-referenced Property:

**Phase I ESA and Phase II Reports**

- Phase I Environmental Site Assessment (ESA) Report; Pendleton Apartments, 500, 511, & 513 East 12th Street and 500, 557, & 563 13th Street, Cincinnati, Ohio 45202; Prepared by Partner Engineering and Science Inc. (Partner); Prepared for Pendleton Housing Partners, LP; Dated June 21, 2021.
- Phase I ESA Report; Pendleton Apartments, 210, 404, 409-415, & 421 East 13th Street, 430 East 12th Street, and 1207 & 1210 Spring Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Pendleton Housing Partners, LP; Dated June 21, 2021.
- Phase I ESA Report; Pendleton Apartments, 1320 Pendleton Street, 1336 and 1347 Broadway Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Pendleton Housing Partners, LP; Dated June 21, 2021.
- Reliance Certificate for the Phase I ESAs dated June 21, 2021; Reliance Parties / Additional Users: CREA Pendleton III Apartments, LLC, CREA SLP, LLC; Dated July 9, 2021.
- Certificate of Insurance; Policy Expires on September 27, 2021.
- Phase I ESA Report; Pendleton III Apartments, Scattered Sites, Cincinnati, Ohio 45202; Prepared by Partner Engineering and Science Inc. (Partner); Prepared for PGIM Real Estate Finance; Reliance Provided to U.S. Department of Housing and Urban Development (HUD); Dated September 2, 2020.
- Phase II Vapor Intrusion Assessment Report; Pendleton, 409, 411, 413 and 415 East 13th Street, Cincinnati, Ohio 45219; Prepared by Partner; Prepared for Belveron Partners; Dated October 17, 2019.

**Asbestos Reports**

- Pre-Renovation Asbestos Survey Report; Pendleton III Apartments, Scattered Site – 19 Buildings, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for PGIM Real Estate Finance; Dated August 31, 2020.



- Asbestos-Containing Material (ACM) Operations & Maintenance (O&M) Plan; Pendleton III Apartments, Scattered Site – 19 Buildings, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for PGIM Real Estate Finance; Dated August 31, 2020.
- ACMs O&M Plan; Pendleton, 500, 511, 513 East 12th Street; 500, 557, 563 East 13th Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- ACMs O&M Plan; Pendleton, 1320 Pendleton Street; 1336 and 1347 Broadway Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- ACMs O&M Plan; Pendleton III Apartments, 210, 404, 409, 411, 413, 415, 421 East 13th Street; 430 East 12th Street; 1207 and 1210 Spring Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.

### Lead-Based Paint (LBP) Reports

- LBP O&M Plan; Pendleton III Apartments, Scattered Site – 19 Buildings, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for PGIM Real Estate Finance; Dated August 31, 2020.
- LBP Inspection Report; Pendleton III Apartments, Scattered Site – 19 Buildings, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for PGIM Real Estate Finance; Dated August 31, 2020.
- LBP O&M Plan; Pendleton, 500, 511, 513 East 12th Street; 500, 557, 563 East 13th Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- LBP O&M Plan; Pendleton III Apartments, 210, 404, 409, 411, 413, 415, 421 East 13th Street; 430 East 12th Street; 1207 and 1210 Spring Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- LBP O&M Plan; Pendleton, 1320 Pendleton Street; 1336 and 1347 Broadway Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.

### Other Reports

- Mold-Moisture Action and Prevention Plan; Pendleton, 210, 404, 409, 411, 413, 415, 421 East 13th Street; 430 East 12th Street; 1207 and 1210 Spring Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- Mold-Moisture Action and Prevention Plan; Pendleton, 1320 Pendleton Street; 1336 and 1347 Broadway Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- Mold-Moisture Action and Prevention Plan; Pendleton, 500, 511, 513 East 12th Street; 500, 557, 563 East 13th Street, Cincinnati, Ohio 45219; Prepared by Partner; Dated November 22, 2019.
- Radon Survey Report; Cincinnati Rehab, 1347 & 1336 Broadway, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.



- Radon Survey Report; Cincinnati Rehab, 1320 Pendleton Street and 500 E. 13<sup>th</sup> Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.
- Radon Survey Report; Cincinnati Rehab, 500, 511, and 513 E. 12th Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.
- Radon Survey Report; Cincinnati Rehab, 557 & 563 E. 13th Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.
- Radon Survey Report; Cincinnati Rehab, 210 E. 13th Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.
- Radon Survey Report; Cincinnati Rehab, 409, 411, 413, 415, 421, E. 13th Street, 430 E. 12th Street, 1207 & 1210 Spring Street, Cincinnati, Ohio 45202; Prepared by Partner; Prepared for Related Affordable; Dated January 21, 2019.

The purpose of the review was to evaluate the environmental conditions reportedly present on the Property and to evaluate conformance of the Phase I ESA report (specifically) to the following scope of work and guidelines listed below.

- American Society for Testing and Materials (ASTM) Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process E 1527-13, or the most current ASTM standard.

Nova reviewed the referenced document(s) for thoroughness in addressing potential environmental concerns at the time of its writing, noting any issues that must be addressed or updated, or the need for additional investigations or remediation at the Property.

## **CURRENT PROPERTY DESCRIPTION**

At the time of the Property visit for the Phase I ESAs dated June 21, 2021 (inspection completed on June 14, 2021), the Property consisted of 19 scattered lots that comprised approximately 1.153-acres and was developed with multi-family residential buildings. Property improvements included 20 two to four-story apartment buildings (with basements) that comprised approximately 114,559 gross square feet and contained 78 apartment units. Additional improvements included courtyards and/or a paved parking area. Based on information provided by the Consultant, current Property improvements were constructed between 1850 and 1920. The Property is zoned Residential Multi-Family (RM-0.7).

No evidence (i.e. use, storage or generation) of hazardous substance and/or petroleum storage was observed with the exception of minor quantities of general maintenance supplies. No evidence of underground storage tanks (USTs), aboveground storage tanks (ASTs), or other potential environmental concerns were reported by the Consultant based on Property observations.

Surrounding properties were identified as apartment buildings, vacant lots, parking lots, PLS Check Cashing Store, Bell Event Center, Platinum Marketing Group, a church or a self-storage facility. No visual evidence of adverse environmental conditions was observed in association with adjoining land.



Review of regulatory database information did not identify the Property on any ASTM standard regulatory databases. No regulatory listings identified within the approximate minimum search distance (AMSD) were considered to be recognized environmental conditions (RECs) in connection with the Property.

Review of historical resources by the Consultant indicated that each lot associated with the Property has been utilized for residential purposes since initial development with the exception of 563 East 13th Street (formerly 610 Reading Road) and 557 / 1320 Pendleton Street (formerly 72 Pendleton). Based on review of city directory information, an automotive repair operated at 563 East 13th Street from at least 1920 through 1947. The Consultant concluded that *“the historical use of the [Property] for small-scale auto repair operations is not expected to represent a significant environmental concern and further evaluation does not appear warranted.”* In addition, Queen City Enameling operated at 72 Pendleton from at least 1875 through 1922. Historical uses of the Property or adjoining land were not identified by the Consultant to be RECs in connection to the Property.

Due the presence of a historical dry cleaner that operated north of 409-415 E 13th Street from at least 1952 through 1964, a vapor intrusion assessment was completed at the Property (409-415 East 13th Street) in October 2019. The investigation included the completion of three sub-slab vapor pins within the basement of the apartment buildings and the collection of four soil-gas samples (included one duplicate sample) for analysis of volatile organic compounds (VOCs). Following laboratory analysis, VOCs were reported below applicable assessment levels. The Consultant concluded that no further investigation was warranted.

An independent search for title records, environmental liens (ELs) and activity use limitations (AULs) was not conducted as part of the current assessment. Based on interview information and review of publicly available resources, no ELs or AULs were identified for the Property.

No evidence of RECs, controlled recognized environmental conditions (CRECs), or historical recognized environmental conditions (HRECs) was identified for the Property during the current Phase I ESA. In addition, a vapor concern was not identified for the Property.

In the 2020 Phase I ESA, the Consultant indicated that ACMs and LBP and may be present. ACM and LBP surveys have been completed at each Property building, which are summarized below.

An asbestos survey was completed at the Property in August 2020 that included the collection of 436 samples from the following materials: drywall, joint compound, plaster, skim coat, texture, window caulk, floor tile, floor mastic, laminate floor, ceiling tile, thermal system insulation (TSI), block insulation, and roof materials. Materials sampled that were determined to be ACM included joint compound (2% chrysotile), ceiling texture (2-3% chrysotile), floor tile (3-4% chrysotile), and roof materials (2% - 4% chrysotile). The Consultant recommended proper management of ACMs in accordance with applicable regulations prior to any disturbance.



A lead LBP survey was completed at the Property in August 2020 that included the collection of 7,716 readings (includes calibration reading) within all 78 apartment units and common areas using an X-ray fluorescence (XRF) lead paint analyzer. As a result of the assessment, lead was reported above the applicable assessment level for the following select building components: exterior window casings / sills; exterior door headers; interior stair stringers / risers; hallway drywall (5000 East 13<sup>th</sup> Street); stairwell drywall (511 East 12th Street, 1347 Broadway); and various attic components. The Consultant indicated that all LBP components “*were observed to be intact*” and recommended that “*damaged paint or deteriorated paint should undergo corrective action to stabilize the paint,*” as well as proper notification to contractors/tenants regarding the location of LBP during any renovation activities.

An ACM O&M Plan and LBP O&M Plan were most recently prepared for the Property in August 2020 and appears to appropriately address management of potential / confirmed ACMs / LBP associated with the Property. Previous sampling efforts were summarized within each of the O&M Plans.

The Property was identified to be located in United States Environmental Protection Agency (USEPA) Radon Zone 1, where average predicted radon levels are greater than 4.0 picoCuries per liter (pCi/L). The USEPA action level for radon is 4.0 pCi/L. Radon sampling was conducted at the Property in January 2019 that included the placement of 64 canisters (includes duplicates and blanks) within first and second floor apartment units. Following laboratory analysis, radon was reported at concentrations ranging from <0.3 pCi/L to 1.3 pCi/L, which is below the applicable action level of 4.0 pCi/L.

Water / mold damage was observed within limited interior portions and within basement areas. In addition, during the June 2021 assessment, the basement of 500 East 13th Street and 511-513 East 12th Street was flooded and water was in the process of being removed. The Consultant recommended that water/mold impacted materials be repaired as part of routine maintenance, as well as continued implementation of the Moisture-Mold Action Prevention Plans (MMAPPs) that have been prepared.

Each Property building is reportedly not located within a designated flood area. Wetlands were not identified within the limits of each Property.



## ENVIRONMENTAL SITE ASSESSMENT REVIEW AND SUMMARY

The following table represents the required sections and content of a Phase I ESA performed in accordance with the current ASTM standard and CREA requirements. Issues that are not in conformance with that standard are indicated, and remedies are suggested in the review comments below the table.

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
<b>INTRODUCTION</b>		
Purpose	Present	
Detailed Scope of Services	Present	
Significant Assumptions	Present	
Limitations and Exceptions	Present	
Special Terms and Conditions	Present	
<b>PROPERTY DESCRIPTION</b>		
Location and Legal Description	Present	
Property and Vicinity General Characteristics	Present	
Number of Buildings on Property	Present	
Number of Stories of Building(s)	Present	
Basement(s)	Present	
Area/Square Footage of Building(s)	Present	
Date of Building(s) Construction	Present	
Property Activity Description	Present	
Descriptions of Structures, Roads, or Other Improvements	Present	
<b>CURRENT USES OF ADJOINING PROPERTIES</b>		
North	Present	
South	Present	
East	Present	
West	Present	
<b>USER PROVIDED INFORMATION</b>		
Title Records	Adequate	
Environmental Liens or Activity and Use Limitations	Adequate	
Specialized Knowledge	Adequate	
Regulatory Agency or Third Party - Known or Pending Action	Adequate	
Owner, Property Manager, and Occupant Information	Present	
Reason for Performing Phase I ESA	Present	
Other Information	Present	
List of Property Environmental Permits	N/A	
<b>REGULATORY RECORDS REVIEW</b>		
<b>FEDERAL Standard Environmental Record Sources</b>		
NPL / Delisted NPL	Present	
SEMS / SEMS ARCHIVE	Present	
RCRA CORRACTS	Present	
RCRA non-CORRACTS TSD	Present	
RCRA Generators	Present	
Institution Controls / Engineering Controls	Present	
ERNS	Present	
Property/Owner identified as a responsible party (RP) or potential RP?	No	
<b>STATE Standard Environmental Record Sources</b>		
State Hazardous Waste Sites	Present	
Landfill / Solid Waste Sites	Present	

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
Registered USTs	Present	
Leaking Registered USTs	Present	
Institution Controls / Engineering Controls	Present	
Voluntary Cleanup Sites	Present	
Brownfield Sites	Present	
Additional Environmental Record Sources	Present	
<b>PHYSICAL SETTING</b>		
Topography (USGS Quadrangle Map)	Present	
Groundwater - Shallow/Deep	Present	
Assumed Groundwater Flow Direction	Present	
Groundwater Use (beneath the Property)	Present	
Surficial Geology	Present	
Soils (USGS Soil Survey)	Present	
<b>PROPERTY, ADJOINING PROPERTY AND VICINITY HISTORICAL USE INFORMATION</b>		
Aerial Photos	Present	
Fire Insurance Maps	Present	
Property Tax Files	Present	
Land Title Records	Not Present	
Topographic Maps	Present	
Street Directories	Present	
Building Department Records	Present	
Zoning/Land Use Records	Present	
Prior Assessment Records	Present	
Historic Property Use	Present	
Year Property First Developed	Present	
Date Property First Occupied by Present Development	Present	
Historic Adjacent Property Use	Present	
<b>PROPERTY RECONNAISSANCE</b>		
<b>General Property Settings</b>		
Date of Inspection	Present	
Current Property Use	Present	
Current Vicinity Use	Present	
Geologic / Topographic Conditions	Present	
<b>Property Utilities</b>		
Source of Heating / Cooling Supply	Present	
Potable Water Supply	Present	
Sewage Disposal System	Present	
Septic Systems	Present	
<b>Exterior and Interior Observations</b>		
Hazardous Substances/Chemicals (includes solvent degreasers)	Present	
Petroleum Products	Present	
ASTs or USTs (Past or Present)	Present	
Heating Oil Use (Past or Present)	Adequate	
Drums	Adequate	
Unidentified Substance Containers	Present	
Strong, Pungent, or Noxious Odors	Present	
Pools of Liquid (standing surface water; or pools or sumps containing liquids)	Present	
PCBs (electrical or hydraulic equipment)	Present	

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
Stains/Corrosion (interior: floors, walls, or ceilings)	Present	
Stained Soil or Pavement (exterior)	Present	
Evidence of a Release (Past or Present)?	No	
Stressed Vegetation	Present	
Drains and Sumps (interior)	Present	
Pits, Ponds and Lagoons (if present, must indicate if used in connection with waste disposal or waste treatment activities)	Present	
Wells (i.e. dry, irrigation, injection, abandoned, monitor or other wells)	Present	
Unnatural Fill Areas	Present	
Fill Noted in Geotechnical Borings	N/A	
Solid Waste	Present	
Wastewater (used in an industrial/manufacturing process or conveys sewage)	Present	
Storm Water	Present	
<b>INTERVIEWS</b>		
Owner	Present	
Key Site Manager	Present	
Occupants	Not Present	
State and/or Local Government Officials (i.e. Fire, Health or Building Depts.)	Present	
Others	Present	
<b>FINDINGS/OPINIONS</b>		
Risk Evaluation	N/A	
Known or Suspected Environmental Conditions	Present	
<b>CONCLUSIONS</b>		
Recognized Environmental Conditions (RECs)	Present	
Controlled Recognized Environmental Conditions (CRECs)	Present	
Historic Recognized Environmental Conditions (HRECs)	Present	
Vapor Encroachment Condition/Screening (VEC/VES)	Present	
Potential Environmental Concerns	Present	
<b>CREA SPECIFIC DOCUMENTATION</b>		
Reliance Letter	Present	
Environmental Insurance Certificate	Present	
Phase I Agreement for Services	Not Present	
<b>CREA REQUIRED NON-SCOPE ITEMS</b>		
<b>Asbestos Containing Materials (ACMs)</b>		
Information Regarding the Absence/Presence of Known or Suspect ACMs	Present	
Has an Asbestos Survey (with sampling) been conducted	Yes	
If Yes, is abatement required	Yes, if ACMs are disturbed	
<b>Lead-Based Paint (LBP)</b>		
Information Regarding the Absence/Presence of Known or Suspect LBP	Present	
Has an LBP Survey (with sampling) been conducted?	Yes	
If Yes, is abatement required?	Yes, if LBP are disturbed	
<b>OTHER</b>		
Flood Plain	Present	
Wetlands	Present	
Lead in Drinking Water	Present	
Moisture Intrusions / Mold Damage	Present	
Radon	Present	
Radon Mitigation System(s) previously installed?	No	

## SUMMARY

At the time of the Property visit for the current Phase I ESAs, each Property was utilized for multi-family purposes. Current Property improvements were reportedly developed in 1850 and 1920.

No evidence of RECs was identified for each Property.

ACMs and LBP have been determined to be present following completion of a surveys in August 2020. An ACM O&M Plan and LBP O&M Plan have been prepared for the Property and appears to appropriately address management of potential/confirmed ACMs / LBP. In addition, Mold-Moisture Action Plans have been prepared for the Property.

Following completion of radon survey in July 2019, radon was not reported at concentrations above 4.0 pCi/L.

## CONCLUSIONS

Nova generally concurs with the Consultant's conclusions of the Phase I report. Nova notes the following:

- Suspect/potential ACMs or LBP should continue to be managed under the Property-specific ACM/LBP O&M Plans that have been prepared for the Property. At least one copy of each document should be maintained at the Property at all times and updated following completion of additional sampling or abatement activities.
- If suspect ACMs/LBP are encountered during renovation activities, which have not been previously sampled, such materials should be sampled by an appropriately licensed inspector prior to impact/disturbance. All confirmed/assumed ACMs/LBP that will be disturbed during renovation efforts must be handled accordingly (i.e. removal by a licensed abatement contractor, in accordance with applicable regulations, or left in-place / encapsulated). Documentation confirming appropriate management, including abatement efforts of ACM/LBP, should be provided to CREA.
- Nova has reviewed the referenced environmental report and based upon our review and professional opinion, the Phase I ESA and related documents conform with ASTM 1527-13 and the All Appropriate Inquiry (AAI) requirements.
- It should be understood that Nova is not an attorney, and this is not a legal interpretation of the scope of services agreement.
- The Phase I ESA reports dated June 21, 2021 (with the Property visit on June 14, 2021 and the regulatory databases dated June 7, 2021), and the reviews contained within, are considered valid until December 3, 2021. If closing has not occurred by this date, an updated ESA should be conducted in accordance with ASTM's Continued Viability of ESAs or a new Phase I ESA should be prepared in accordance with ASTM Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process E 1527-13.



## LIMITATIONS OF DESKTOP REVIEW

Nova has performed this report review and prepared this report in accordance with generally accepted consulting practices, and makes no other warranties, either expressed or implied, as to the character and nature of such services or product. Nova, its officers, and its employees have no present or contemplated interest in the Property. Nova's employment and compensation for preparing this report are not contingent upon the observations or conclusions. The information in this report is from sources deemed and assumed to be reliable; however, no representation or warranty is made as to the accuracy thereof.

This Desktop Review is prepared for the exclusive use of the following:

- Pendleton Housing Partners, LP;
- CREA Pendleton III Apartments, LLC; and
- CREA SLP, LLC.

This report and findings contained herein shall not, in whole or in part, be disseminated or conveyed to any other party, nor used by any other party, in whole or in part without prior written consent of Nova. However, Nova acknowledges and agrees that the report may be conveyed to and relied upon by CREA and the title insurer associated with the financing and/or property transfer of the Property.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennon Lewis".

Jennon Lewis  
Senior Project Manager

A handwritten signature in black ink, appearing to read "Marc Weyd".

Marc Weyd, P.G.  
Client Manager

**APPENDIX XII**

**DESIGNATED INDIVIDUAL ACKNOWLEDGEMENT**

The undersigned Designated Individual for the Project acknowledges and agrees to be bound by the terms of *Section 5.4(d)* of the Amended and Restated Agreement of Limited Partnership of Pendleton Housing Partners, L.P. dated as of August 20, 2021 (the "Partnership Agreement").

Capitalized terms used but not defined shall have the meanings set forth in the Partnership Agreement.

"DESIGNATED INDIVIDUAL"



\_\_\_\_\_  
ROGER HEIM

Effective as of: August 20, 2021

**SHAKOPEE HOUSING PARTNERS, LP**  
**A MINNESOTA LIMITED PARTNERSHIP**  
**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

**July 8, 2021**

<b>GENERAL PARTNER:</b>	<b>SHAKOPEE HOUSING MANAGEMENT, LLC</b> <b>415 1st Avenue North #19240</b> <b>Seattle, Washington 98109</b>
<b>LIMITED PARTNER:</b>	<b>CREA SHAKOPEE VILLAGE APARTMENTS, LLC</b> <b>30 South Meridian Street, Suite 400</b> <b>Indianapolis, Indiana 46204</b>
<b>SPECIAL LIMITED: PARTNER:</b>	<b>CREA SLP, LLC</b> <b>30 South Meridian Street, Suite 400</b> <b>Indianapolis, Indiana 46204</b>



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**SHAKOPEE HOUSING PARTNERS, LP  
A MINNESOTA LIMITED PARTNERSHIP**

**AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP**

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP is made and entered into as of July 8, 2021, by and among SHAKOPEE HOUSING MANAGEMENT, LLC, a Minnesota limited liability company (the “General Partner”), CREA SHAKOPEE VILLAGE APARTMENTS, LLC, a Delaware limited liability company (the “Limited Partner”), CREA SLP, LLC, an Indiana limited liability company (the “Special Limited Partner”), and STEPHEN R. WHYTE, an individual (the “Withdrawing Limited Partner”).

**RECITALS**

WHEREAS, the General Partner, as general partner, executed a Certificate of Limited Partnership (the “Certificate”) for the formation of SHAKOPEE HOUSING PARTNERS, LP (the “Partnership”) pursuant to the terms of the Minnesota Uniform Limited Partnership Act 2001, Chapter 321 of the Minnesota Statutes (the “Act”), which Certificate was subsequently filed with the Office of Secretary of State of the State of Minnesota (the “State of Formation”) on July 9, 2020;

WHEREAS, the General Partner, the Limited Partner and the Special Limited Partner wish to continue the Partnership pursuant to the Act;

WHEREAS, the Partnership has been formed to acquire, develop, finance, rehabilitate, own, maintain and operate a 62-unit multifamily Project Property, which will be for rental to seniors (ages 62 years and older) or disabled persons of low-income, known as Shakopee Village Apartments and located in Shakopee, Minnesota;

WHEREAS, the parties hereto now desire to enter into this Partnership Agreement to (i) continue the Partnership under the Act; (ii) withdraw the Withdrawing Limited Partner from the Partnership; (iii) admit the Limited Partner and the Special Limited Partner to the Partnership as limited partners and (iv) set forth all of the provisions governing the Partnership.

NOW, THEREFORE, in consideration of the foregoing, of mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree to continue the Partnership pursuant to the Act, as set forth in this Partnership Agreement, which reads in its entirety as follows:

**ARTICLE 1  
ORGANIZATION**

**Section 1.1 Continuation of Partnership.** The Partnership was formed as of July 9, 2020 by the filing of the Certificate. The Partnership’s original partnership agreement was entered into as of July 9, 2020 by and between the General Partner, as general partner, and the Withdrawing Limited Partner, as limited partner (the “Original Agreement”). The General Partner, the Limited Partner and the Special Limited Partner desire to and do hereby amend and restate the Original

Agreement in its entirety to admit the Limited Partner and the Special Limited Partner upon the terms and conditions set forth in this Agreement.

By its execution of this Agreement, the Withdrawing Limited Partner hereby withdraws from the Partnership, and the Withdrawing Limited Partner, as such, shall have no interest or rights in the Partnership and furthermore acknowledges, represents and warrants that he has no claims or rights against the Partnership as a former Partner as of the date of this Agreement.

**Section 1.2 Character and Purpose of Business.** The general character and purpose of the business of the Partnership shall be to: (a) acquire, rehabilitate, own, finance, lease and operate the Project Property as a qualified low income housing project within the meaning of the Code; (b) eventually sell or otherwise dispose of the Project Property in a manner consistent with the provisions of this Partnership Agreement; and (c) engage in all other activities incidental or related thereto.

**Section 1.3 Name of Partnership.** The name of the Partnership is “Shakopee Housing Partners, LP.”

**Section 1.4 Principal Place of Business.** The address of the principal place of business of the Partnership shall be 1010 Dale Street North, St. Paul, Minnesota 55117, or such other address as may from time to time be selected by the Partners.

**Section 1.5 Principal Office.** The address of the principal office of the Partnership in Minnesota shall be at such address as may from time to time be selected by the Partners.

**Section 1.6 Agent for Service of Process.** CT Corporation System shall be the Partnership’s agent for service of process. The agent’s address for such purpose shall be 1010 Dale Street North, St. Paul, Minnesota 55117, or such other address as the Partners may select from time to time.

**Section 1.7 Name and Address of General Partner.** The name and address of the General Partner are as follows:

Shakopee Housing Management, LLC  
415 1st Avenue North #19240  
Seattle, Washington 98109

**Section 1.8 Names and Addresses of Limited Partner and Special Limited Partner.**

The name and address of the Limited Partner are as follows:

CREA Shakopee Village Apartments, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

The name and address of the Special Limited Partner are as follows:

CREA SLP, LLC  
30 South Meridian Street, Suite 400  
Indianapolis, Indiana 46204

**Section 1.9 Governmental Filings.** The General Partner shall make all governmental filings as are necessary or appropriate to qualify the Partnership to do or continue to do business in the State and any other jurisdiction or to otherwise carry out the purposes and intent of this Partnership Agreement. In addition, the General Partner shall timely and properly file of record the Restrictive Covenant.

**Section 1.10 Term of Partnership.** The term of the Partnership began on July 9, 2020 (the date on which the Partnership's certificate of limited partnership was first filed with the Office of Secretary of State of the State of Minnesota) and the Partnership shall continue in existence in perpetuity, unless it is earlier dissolved and terminated pursuant to the provisions of this Partnership Agreement.

**Section 1.11 Definitions.** All capitalized words and phrases used in this Partnership Agreement (other than the full names and addresses of the Partners and governmental subdivisions and agencies) have the meanings set forth in **Appendix I.**

## **ARTICLE 2** **CAPITAL CONTRIBUTIONS**

### **Section 2.1 General Partner's Capital Contributions.**

(a) The General Partner will make a cash Capital Contribution to the Partnership in the amount of \$100 and, upon the execution of this Partnership Agreement, shall provide documentation that the Capital Contribution has been made. In no event shall the aggregate Capital Contributions of the General Partner exceed \$100 without the Consent of the Limited Partner.

(b) The General Partner has assigned and hereby assigns and has caused and shall cause its Affiliates to assign to the Partnership all of its respective rights, title and interest in, to, and under all agreements, licenses, approvals, permits, Tax Credit allocations and any other tangible or intangible personal property which is related to the Project Property or which is required to permit the Partnership to pursue its business and carry out its purposes as contemplated in this Partnership Agreement. The General Partner's Capital Account will not be credited with any amount as a result of its assignment to the Partnership of the various items referred to in the immediately preceding sentence.

(c) If any Developer Fee including any accrued but unpaid interest thereon (if any) remains (or is expected to remain) at the expiration of the Compliance Period, the General Partner shall make an additional Capital Contribution to the Partnership in the aggregate amount of the unpaid Developer Fee no later than 6 months prior to the expiration of the Compliance Period, and the General Partner shall cause the Partnership to immediately pay the entire unpaid amount of Developer Fee. If the General Partner does not make such additional Capital Contribution as required in the preceding sentence, such Capital Contribution will be deemed to have been paid by the General Partner and unpaid Developer Fee will be deemed to have been paid by the Partnership, and the Developer's sole recourse for nonpayment shall be against the General Partner.

## **Section 2.2 Special Limited Partner's and Limited Partner's Capital Contributions.**

(a) The Special Limited Partner shall pay its entire Capital Contribution of \$100 to the Partnership in cash as of the date of admission.

(b) The Limited Partner shall contribute as its Capital Contribution the sum of \$3,577,423 payable in accordance with the schedule of payments set forth on Appendix VIII. The obligation of the Limited Partner to make the Capital Contributions is subject to satisfaction of the conditions precedent to each installment of its Capital Contribution as set forth in *Section 2.2(c)*, *Section 5.4(a)* and Appendix VIII. Each such installment of the Capital Contribution shall be made within seven (7) Business Days of the satisfaction of the last condition precedent thereto.

(c) All installments of Capital Contributions by the Limited Partner made through Construction Completion shall be funded on a monthly draw basis. The obligation of the Limited Partner to make any Capital Contribution pursuant to this *Section 2.2* shall be expressly conditioned upon each of the following requirements being satisfied at all times prior to and including the due dates of the aforesaid payments:

- (1) the General Partner shall have properly completed, executed and delivered to the Limited Partner a certificate relating to the appropriate installments in the forms attached in Appendix VIII;
- (2) the General Partner shall have fully complied with all of its covenants and obligations set forth in this Partnership Agreement (including without limitation, those covenants and obligations set forth in *Section 5.3* which shall be true and correct in all material respects);
- (3) no event shall have occurred which would permit the Limited Partner to give an Election Notice under *Section 5.10(e)*;
- (4) the Project must be In Balance; and
- (5) there has been no change in any law or regulation, which would adversely affect the ability of the Partnership to generate Tax Credits.

Until repayment in full of the Bridge Loan, the General Partner hereby directs the Limited Partner, and the Limited Partner hereby agrees, to deposit its Capital Contributions as and when due pursuant to the terms of this Agreement directly to the Bridge Lender in accordance with payment instructions received from the Bridge Lender pursuant to the terms of the Borrower Pledge Agreement (as such term is defined below). The foregoing payments and deposits by the Limited Partner shall be made for administrative convenience only, and such payments shall be deemed to be payment of the Limited Partner's Capital Contributions to the Partnership.

Each of the General Partner, the Limited Partner and the Special Limited Partner hereby acknowledges, agrees, and consents to the Partnership signing, delivery, and performance of the Pledge and Security Agreement (Capital Contributions) dated as of July 8, 2021 (the "Borrower Pledge Agreement"), the Partnership's grant of a security interest to the Bridge Lender in the pledged Capital Contributions and the other collateral described in the Borrower Pledge

Agreement and the Bridge Lender's enforcement of all of its rights and remedies under the Borrower Pledge Agreement in the event that the Bridge Lender forecloses on the collateral therein.

The General Partner and the Limited Partner agree not to amend or modify the payment direction in this Section 2.2(c) without the written consent of the Bridge Lender.

**Section 2.3**      **Interest on Capital Contributions.** The Partnership shall not pay any Partner interest on its Capital Contribution.

**Section 2.4**      **Withdrawal and Return of Capital Contributions.** No Partner has the right: (a) to withdraw any part of its Capital Contribution from the Partnership; (b) to demand a return of its Capital Contribution; or (c) to receive property other than cash in return for its Capital Contribution.

**Section 2.5**      **Capital Accounts.**

(a) The Partnership shall maintain for each Partner a separate capital account in accordance with Section 1.704-1(b) of the Regulations. The Capital Account of each Partner consists of the amount of its Capital Contribution, and will be (1) increased by (i) the fair market value of any property contributed by it to the Partnership, (ii) the amount of any Partnership liability assumed by such Partner or which is secured by any Partnership Property distributed to such Partner, and (iii) such Partner's allocable share of Profits, and (2) decreased by (i) the amount of any cash distributed to it, (ii) the fair market value of any Partnership Property distributed to it, (iii) the amount of any liability of such Partner assumed by the Partnership or which is secured by any property contributed by such Partner to the Partnership, and (iv) its allocable share of Losses. The Capital Account of each Partner will also be adjusted to the extent required by Section 1.704-1(b)(2)(iv)(j) of the Regulations.

(b) If any Partnership Interests are transferred in accordance with the terms of this Partnership Agreement, then the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Partnership Interests. Upon the occurrence of any of the following events, and if required to cause the provisions herein regarding the maintenance of Capital Accounts to comply with Section 1.704-1(b) of the Regulations, the Partnership Property shall be revalued and the Partners' Capital Accounts adjusted to reflect the gain (or loss) that would have been allocated to each Partner if all the Partnership Property had been sold at its fair market value immediately prior to the occurrence of such event:

(1) 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;

(2) The Partnership distributing to a Partner more than a de minimis amount of property or money in consideration for an interest in the Partnership; or

(3) The "liquidation" of the Partnership within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations.



The revaluation of the Partnership Property referred to in the immediately preceding sentence shall be made in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

The foregoing provisions and all other provisions of this Partnership Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations.

**Section 2.6 Partnership Loans.** Subject to the limitations set forth in *Section 5.2(f)* and *Section 5.4(g)*, if from time to time funds are needed by the Partnership in excess of those provided by the Project Loans, Capital Contributions of the Partners, and funds required to be provided by the General Partner or any of its Affiliates pursuant to any obligation hereunder or any other agreement (such as pursuant to *Sections 5.4(i)* and *(l)*), any Partner or other Person may loan such additional funds to the Partnership at an interest cost to the Partnership and upon such other terms, as agreed upon by the General Partner and the Special Limited Partner in their reasonable discretion, subject to compliance with the terms of existing loan agreements and this Partnership Agreement. Any loans made by the General Partner or its Affiliates will not bear interest in excess of one percent (1%) per annum over the Prime Rate. Any Partner making any loan to the Partnership will be considered, with respect to the monies advanced, a general creditor of the Partnership and not a Partner. Any loan made hereunder by a Partner will be paid as provided in *Section 4.1* and *Section 4.2* hereof.

**Section 2.7 Additional Capital Contributions.** Except as expressly provided in this Partnership Agreement, no Partner is obligated to make contributions to the capital of the Partnership.

### **ARTICLE 3** **ALLOCATION OF PROFITS, LOSSES AND TAX CREDITS**

**Section 3.1 Profit and Loss Allocations.** All Profits and Losses for any Fiscal Year of the Partnership, except those items in *Section 3.2* below, shall be allocated to the Partners in accordance with the following percentages. Every item of income, gain, loss, deduction, or tax preference entering into the computation of such Profits and Losses, or applicable to the period during which such Profits and Losses were realized, shall be considered allocated to each Partner in the same proportion as Profits and Losses are allocated to such Partner.

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

Allocations to the Limited Partner and the Special Limited Partner herein shall be made in accordance with the percentages set forth in this *Section 3.1* unless specifically stated otherwise.

**Section 3.2 Special Allocations.** Notwithstanding anything to the contrary contained in *Section 3.1*, the following special allocations shall in all events apply in determining the allocation of Profits and Losses among the Partners and shall be made prior to the allocations required under *Section 3.1*.

(a) **Depreciation and Tax Credits.**

(1) Depreciation (cost recovery) deductions and Tax Credits shall be allocated among the Partners in accordance with the following percentages:

General Partner	0.010%
Special Limited Partner	0.001%
Limited Partner	<u>99.989%</u>
Total	100.00%

(2) Any recapture of Tax Credits shall be allocated to the Partners who were allocated (or whose predecessors-in-interest were allocated) the depreciation/cost recovery deduction and Tax Credits associated therewith.

(b) **Limitation on Allocations of Losses.**

(1) To the extent the allocation of any Losses to a Partner would cause that Partner to have an Adjusted Capital Account Deficit at the end of any Fiscal Year of the Partnership, then those Losses will not be allocated to that Partner, but rather will be specially allocated to the remaining Partners in proportion with their relative interests in the Partnership.

(2) In the event some but not all of the Partners would have Adjusted Capital Account Deficits due to an allocation of Losses, the limitation set forth in this *Section 3.2(b)* shall be applied on a Partner by Partner basis so as to allocate the maximum permissible Losses to each Partner who is not a General Partner under Treas. Reg. Section 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitation set forth in this *Section 3.2(b)* shall be allocated to the General Partner.

(c) **Profit Chargeback.** To the extent any Losses are specially allocated to a Partner in accordance with *Section 3.2(b)*, then Profits will thereafter first be specially allocated to such Partner in proportion to and in an amount (1) up to but not exceeding the amount of any such special allocation of Losses away from such Partner under such subparagraph (b) but (2) not to the extent that Losses or depreciation deductions would be allocated to the remaining Partners in excess of the amount permitted by *Section 3.2(b)*.

(d) **Partnership Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the Partnership's Minimum Gain attributable to Nonrecourse Liabilities during any taxable year, each Partner shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such year (and, if necessary for subsequent years) in proportion to, and to the extent of, an amount equal to such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(g)(2). In the event that such net decrease in the Partnership's Minimum Gain occurs in connection with the disposition of all or any portion of the Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of such disposition. It is the intent that the allocations provided in this

*Section 3.2(d)* shall be determined in accordance with and only to the extent required by Treas. Reg. Section 1.704-2(f) and (j)(2)(i).

(e) **Partner Minimum Gain Chargeback.** Notwithstanding any other provision of this Partnership Agreement, if there is a net decrease in the amount of the Partnership's Minimum Gain during any taxable year with respect to a Partner Nonrecourse Debt, the Partner bearing the Economic Risk of Loss with respect to such Partner Nonrecourse Debt shall be specially allocated a pro rata portion of each of the Partnership's items of income and gain for such taxable year (and, if necessary, for subsequent years) in proportion to, and to the extent of the amount of such Partner's share of the net decrease in such Minimum Gain during such taxable year as determined in accordance with the provisions of Treas. Reg. Section 1.704-2(i)(4). In the event that such net decrease in the Partner's Minimum Gain occurs in connection with the disposition of all or any portion of Project Property, then any items of Partnership income or gain allocated in accordance with the previous sentence shall first consist of gain recognized by the Partnership as a result of such disposition. It is the intent that the allocations provided in this *Section 3.2(e)* shall be determined in accordance with and only to the extent required by the provisions of Treas. Reg. Section 1.704-2(i) and (j)(2)(ii).

(f) **Qualified Income Offset.** If a Partner unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, then items of Partnership income or gain will be specially allocated to that Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of that Partner as quickly as possible. The special allocations required pursuant to this subparagraph (f) are made only if and to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made as if this subparagraph (f) were not in this Partnership Agreement. This subparagraph (f) is intended to comply with the qualified income offset requirements of Section 1.704-1(b)(2)(ii)(d) of the Regulations and will be interpreted consistently therewith.

(g) **Gross Income Allocation.** In the event any Partner has a deficit Capital Account at the end of any Fiscal Year in excess of the sum of (i) the amount that such Partner must restore pursuant to any provision of this Partnership Agreement, if any, and (ii) the amount such Partner is deemed obligated to restore pursuant to the penultimate sentence of Treas. Reg. Section 1.704-2(g) and Section 1.704-2(i)(5), such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this *Section 3.2(g)* shall be made if and only to the extent that such Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 3 have been tentatively made as if these *Sections 3.2(f)* and *3.2(g)* hereof were not in this Partnership Agreement.

(h) **Nonrecourse Deductions.** Nonrecourse Deductions shall be specially allocated among the Partners in accordance with the same percentages set forth in *Section 3.1* with respect to Profits and Losses.

(i) **Partner Nonrecourse Deductions.** Partner Nonrecourse Deductions shall be specially allocated to the Partner who bears the Economic Risk of Loss with respect to the Partner

Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i) of the Regulations.

(j) **Section 754 Adjustment.** To the extent an adjustment to the adjusted tax basis of any Partnership Property undertaken pursuant to Section 734(b) or 743(b) of the Code is required to be taken into account in determining the Capital Accounts of the Partners under Treas. Reg. Section 1.704-1(b)(2)(iv)(m), then the amount of such adjustment to the Capital Accounts will 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 will be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to the aforementioned section of the regulations.

(k) **Imputed Interest.** To the extent the Partnership has taxable interest income with respect to any Capital Contribution pursuant to Section 483 or Sections 1271 through 1288 of the Code, then (i) such interest income shall be specially allocated to the Partner to whom such Capital Contribution relates, and (ii) the amount of such interest income shall be excluded from the Capital Contributions credited to such Partner's Capital Account in connection with the payments of principal with respect to such Capital Contribution.

(l) **Curative Allocations.** In the event that income, loss or items thereof are allocated to one or more Partners pursuant to *Sections 3.2(f) and (g)*, subsequent income, loss or items thereof shall be allocated (subject to the provisions of *Sections 3.2(f) and (g)*) to the Partners so that, to the extent possible in the judgment of the General Partner, the net amount of allocations shall be equal to the amount that would have been allocated had *Section 3.2* not been applied. Notwithstanding the foregoing, the allocation of depreciation deductions will be governed by *Section 3.2(a)* and this *Section 3.2(l)* shall not apply to allocations of depreciation deductions.

(m) **Allocation of Income or Gain from Sales.** All items of Partnership income or gain arising from events resulting in Net Cash from Sales or Refinancings shall be allocated:

*First*, as specified in *Sections 3.2(c) through (g), (j) and (l)* and *Section 3.4(c)*;

*Second*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose, the Limited Partner has a negative Capital Account balance, 100% to the Limited Partner until the Limited Partner's negative Capital Account is reduced to zero;

*Third*, if after the allocation of Profits and Losses for the Fiscal Year in which the gain arose the General Partner has a negative Capital Account balance, 100% to the General Partner until such negative Capital Account balance is reduced to zero;

*Fourth*, to each Partner until such Partner's positive Capital Account balances equal any amount to be distributed to such Partner pursuant to *Section 4.2(a)*;

*Fifth*, to the Partners in accordance with the percentages specified in *Section 4.2(b)*.

(n) **Special Adjustment.** Notwithstanding any provision of this Partnership Agreement to the contrary and prior to making, with respect to a Fiscal Year, any special allocations set forth in this *Section 3.2*, (1) items of expenses and other deductions (other than depreciation, amortization, cost recovery deductions, and Nonrecourse Deductions) incurred in such Fiscal Year for any Fiscal Year, equal to the amount of any loan advances to the Partnership made or required to be made in such Fiscal Year by the General Partner or any of its Affiliates pursuant to this Partnership Agreement shall be specially allocated to the General Partner making the loan; and (2) any “cancellation of debt income” (defined in Section 1.61-12 of the Regulations) arising before the Limited Partner’s admission to the Partnership shall be specially allocated to the General Partner.

(o) **Limited Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the Limited Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner.

(p) **General Partner Allocation Option.** In any taxable year after the expiration of the Credit Period, the General Partner will have the exercisable right and option, but not obligation, to adjust the allocation of Profits, Losses and depreciation (cost recovery) deductions so that 90% of the Profits, Losses and depreciation (cost recovery) deductions are allocated to the General Partner and 10% are allocated to the Limited Partner; provided, however, that such right will only be exercisable if the Limited Partner’s Capital Account is negative or projected to be negative in that year and such negative capital account would result in exit tax liability to the General Partner in excess of \$135,868 (as determined by the Special Limited Partner).

**Section 3.3 Timing of Allocations.** Except as otherwise expressly provided herein, or under the Code, all allocations of Profits, Losses and Tax Credits shall be made as of the last day of each Fiscal Year of the Partnership.

**Section 3.4 Other Allocation Rules.** The following rules shall apply for the purpose of interpreting and applying the provisions of this Article 3 relating to the allocation of Profits, Losses and Tax Credits among the Partners:

(a) **Excess Nonrecourse Liabilities.** Solely for purposes of determining a Partner’s proportionate share of the “excess nonrecourse liabilities” of the Partnership within the meaning of Section 1.752-3(a)(3) of the Regulations, the Partners’ respective interests in Partnership Profits shall be those percentage interests set forth in *Section 3.1* (determined without regard to *Section 3.2*).

(b) **Effect of Cash Distributions.** To the extent permitted by Section 1.704-2(h) and Section 1.704-2(i)(6) of the Regulations, the General Partner shall endeavor to treat distributions of Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt only to the extent that such distributions would

cause or increase an Adjusted Capital Account Deficit for the Limited Partner, as of the end of the Fiscal Year in which a distribution occurs.

(c) **Recharacterization of Fee as Distribution.** If any fee or portion thereof which would be considered an ordinary and necessary expense of the Partnership payable to any Partner or any Affiliate thereof is determined to be a nondeductible distribution from the Partnership to a Partner for federal income tax purposes, there shall be allocated to such Partner an amount of gross income equal to such distribution.

(d) **Deductions Attributable to Operating Deficit Loans.** In the event that the General Partner makes any Operating Deficit Loans pursuant to *Section 5.4(i)*, any deductions or losses of the Partnership attributable to the use of those funds shall be specially allocated to the General Partner.

(e) **Income Attributable to General Partner Capital Contributions.** Any income attributable to the Capital Contribution of the General Partner shall be allocated to the General Partner.

**Section 3.5 Tax Effect of Allocations.** Except as otherwise required under the second paragraph of this *Section 3.5*, the allocation of Profits, Losses and Tax Credits to any Partner under this Article 3 shall be deemed an allocation to that Partner of the same proportionate part of each separate item of Partnership taxable income, gain, loss, deduction or credit which comprise such Profits, Losses and Tax Credits, including, without limitation, any “unrealized receivable” or “substantially appreciated inventory item” under Section 751 of the Code. The Partners are aware of the income tax consequences of the allocations made pursuant to this Article 3 and hereby agree to be bound by the provisions of this Article 3 in reporting their respective shares of Partnership income, gain, loss, deduction and credit for income tax purposes.

Notwithstanding anything to the contrary contained in this Article 3, income, gain, loss, deduction and credit with respect to any Partnership Property contributed to the capital of the Partnership by any Partner shall, solely for tax purposes, be allocated among the Partners so as to take into account any variation between the adjusted tax basis of such Partnership Property to the Partnership for federal income tax purposes and the value assigned to such Partnership Property for the purposes of the computation of the Partners’ Capital Accounts. If any revaluation of the Partnership Property is made by the General Partner (which revaluation may only be made with the Consent of the Special Limited Partner) then any subsequent allocations of income, gain, loss, deduction and credit with respect to such Partnership Property shall take into account any variation between the adjusted tax basis of such Partnership Property for federal income tax purposes and the value assigned to such Partnership Property as a result of such revaluation. All allocations required under this paragraph of *Section 3.5* are solely for purposes of federal, state and local income taxes and shall not affect or in any way be taken into account in computing any Partner’s Capital Account or any Partner’s share of Profits, Losses, Tax Credits or other items or distributions required or permitted to be made pursuant to any provision of this Partnership Agreement.

**Section 3.6 Miscellaneous Allocations.**

(a) Except in the case of any Net Cash from Sales and Refinancings pursuant to *Section 4.2*, if any Partnership expenditure treated as a deduction on its federal income tax return is disallowed as a deduction and treated as a distribution pursuant to Section 731(a) of the Code, there shall be a special allocation of gross income to the General Partner deemed to have received such distribution equal to the amount of such distribution.

(b) From and after the achievement of Stabilized Operations, if the General Partner receives a distribution of Cash Flow pursuant to *Section 4.1(a)*, then there shall be allocated to the General Partner an amount of income equal to the amount of such distribution.

**ARTICLE 4**  
**DISTRIBUTIONS**

**Section 4.1 Distribution of Cash Flow.**

(a) Subject to any Requisite Approvals, after payment of the Asset Management Fee and the Incentive Leasing Fee, all net rental income prior to the achievement of Stabilized Operations shall be available to the Developer and the General Partner to pay Development Costs; thereafter, subject to any Requisite Approvals, Cash Flow shall be distributed in the following order and priority:

(1) *First*, to pay the Asset Manager its Asset Management Fee including any accrued but unpaid Asset Management Fee;

(2) *Second*, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(3) *Third*, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive from Cash Flow as payment to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) *Fourth*, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon, and then as a return of capital to the General Partner to the extent of any Capital Contribution by the General Partner related to payment of the deferred Developer Fee, until the aggregate amount distributed pursuant to this *Section 4.1(a)(4)* equals the amount of such General Partner Capital Contribution;

(5) *Fifth*, to the Operating Reserve Account until such time as such account is equal to the Operating Reserve Amount and then to the Replacement Reserve to fund required amounts from prior years not previously funded;

(6) *Sixth*, to pay the General Partner its Partnership Management Fee including any accrued but unpaid Partnership Management Fee;

(7) Seventh, to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*;

(8) Eighth, 10% to the Limited Partner; and

(9) Ninth, the balance to the General Partner, first as an Incentive Management Fee (but not in excess of 12% of the gross revenues of the Partnership less any fees payable to the General Partner or its Affiliates) and thereafter, as a preferred return to the General Partner (the “Preferred Return”). In the event that there is a Preferred Return, there shall also be a gross income allocation to the General Partner for that Fiscal Year in an amount equal to such Preferred Return.

**Section 4.2 Net Cash from Sales and Refinancings.** Except as otherwise provided in Article 10 hereof (pertaining to the liquidation and dissolution of the Partnership), Net Cash from Sales and Refinancings (with the exception of any proceeds owed to the Limited Partner and the Special Limited Partner from a contemporaneous refinancing of the Project that occurs in connection with *Sections 8.5* and *8.6* herein) shall be paid or distributed to the Partners as provided in this *Section 4.2*.

(a) Prior to winding up and dissolution, Net Cash from Sales and Refinancings shall, prior to making any distributions pursuant to *Section 4.2(b)* hereof, be paid out in the following order and priority:

(1) First, to repay any unpaid loans made by the Limited Partner or the Special Limited Partner pursuant to *Section 2.6* hereof;

(2) Second, to discharge, to the extent required by any lender or creditor, the debts and obligations of the Partnership (including any outstanding loan made pursuant to *Section 2.6* hereof);

(3) Third, to the Limited Partner to the extent of any amount to which the Limited Partner is entitled to receive to satisfy any payment required pursuant to *Section 5.10* hereof or any other amounts owed to the Limited Partner or the Special Limited Partner pursuant to this Agreement or the Guaranty Agreement;

(4) Fourth, to the Limited Partner in the amount of the Exit Taxes, provided that no Exit Taxes shall be paid to the Limited Partner for a disposition pursuant to *Section 8.5* or *Section 8.6* hereof;

(5) Fifth, to the payment of any accrued but unpaid Asset Management Fee;

(6) Sixth, to pay first any unpaid, deferred Developer Fee, and any accrued interest thereon;

(7) Seventh, to fund reserves for contingent liabilities to the extent deemed reasonable by the Limited Partner (other than items listed below in this *Section 4.2(a)*);



(8) Eighth, to the General Partner to repay any Development Deficit Loan and any Operating Deficit Loan then outstanding made by the General Partner pursuant to *Section 5.4(g)*, *Section 5.4(i)*, or *Section 5.4(n)* or any unpaid loan made by the General Partner pursuant to *Section 2.6*;

(9) Ninth, to the General Partner first to pay the Partnership Management Fee and then to pay the Disposition Fee; and

(b) After making the payments specified in *Section 4.2(a)*, the balance of Net Cash from Sales and Refinancings, if any, shall be distributed among the Partners in accordance with the following percentages:

General Partner	89.999%
Special Limited Partner	0.001%
Limited Partner	<u>10.00%</u>
Total	100.00%

**Section 4.3 Timing of Distributions.** Distributions of Cash Flow shall be made annually within 90 days after the end of each Fiscal Year of the Partnership, but in no event prior to the Special Limited Partner's receipt and reasonable approval of the calculation of Cash Flow and draft annual Partnership financial statements. The determination of the amount of Cash Flow distributable annually to the Partners under this Article 4 shall be made based upon the state of facts existing on the last day of each Fiscal Year of the Partnership. Provided that no default has occurred and is continuing and to the extent permitted by HUD and the Project Lenders, the General Partner may elect to distribute Cash Flow at the end of the second quarter of any Fiscal Year (each, a "Semi-Annual Cash Flow Distribution") subject to the following conditions. No Semi-Annual Cash Flow Distribution may exceed the lesser of (a) 75% of the Cash Flow then available, or (b) 50% of the Cash Flow projected to be available for such Fiscal Year based on a current cash flow projection schedule prepared by the General Partner (which schedule shall take into account the actual operations of the Project and shall otherwise be reasonably acceptable to the Limited Partner). By electing to make any such Semi-Annual Cash Flow Distribution, the General Partner acknowledges and agrees that it must make an Operating Deficit Loan to the Partnership in the event that an Operating Deficit arises following such Semi-Annual Cash Distribution and, but for such Semi-Annual Cash Distribution, the Partnership would have had sufficient Cash Receipts to pay its Operating Expenses in full. Any Operating Deficit Loan made by the General Partner in respect of the obligation described in the preceding sentence shall not reduce or otherwise diminish the maximum amount of the Operating Deficit Loans required under *Section 5.4(i)*. In the event that the Semi-Annual Cash Flow Distribution made at the end of the second quarter of any Fiscal Year exceeds the actual amount of Cash Flow generated in such Fiscal Year as approved in the Partnership's audited financial statements (each, an "Excess Cash Flow Distributions"), the General Partner shall promptly reimburse the Partnership for any Excess Cash Flow Distributions that the General Partner or any Affiliate of the General Partner received (and each subsequent distribution of Cash Flow to a Person other than the General Partner or its Affiliates shall be reduced as and to the extent necessary to eliminate the Excess Cash Flow Distributions payable to such Person(s) as quickly as possible).

**ARTICLE 5**  
**POWERS, RIGHTS AND DUTIES OF GENERAL PARTNER**

**Section 5.1 Management of Partnership.**

The Partnership shall be managed by the General Partner, who shall exercise full and exclusive control over the affairs of the Partnership, subject, however, to the limitations on its authority set forth in this Partnership Agreement (including, without limitation, *Sections 5.2 and 5.3*). The General Partner shall conduct and manage the affairs of the Partnership in a prudent, businesslike, and lawful manner and shall devote such part of its time to the affairs of the Partnership as shall be deemed necessary and appropriate to pursue the business and carry out the purposes of the Partnership as contemplated in this Partnership Agreement. The General Partner shall use its best efforts and exercise good faith in all activities related to the business of the Partnership.

**Section 5.2 Restrictions on the General Partner's Authority.** Notwithstanding anything to the contrary contained in this Partnership Agreement, the General Partner shall not have the authority to take any of those actions specifically set forth below, unless the Consent of the Special Limited Partner is obtained:

(a) Do any act that is in contravention of or inconsistent with this Partnership Agreement or any other agreement to which the Partnership is a party (including, without limitation, those relating to the Project Loans);

(b) Do any act which would make it impossible to carry on the ordinary business of the Partnership;

(c) Confess a judgment against the Partnership;

(d) To cause the Partnership to possess Partnership Property or assign rights in specific Partnership Property for other than a Partnership purpose;

(e) Except as provided herein, sell or otherwise transfer any interest in the Project Property (other than leases of residential units and the sale or disposition of personal property replaced with property of similar character and purpose in the ordinary course of the Partnership's business);

(f) Incur any liability on behalf of the Partnership in the ordinary course of the Partnership's business in excess of \$100,000 in the aggregate (or enter into any agreement resulting in any such liability being incurred), other than the Project Loans or loans required or permitted under *Section 5.4(i)* and *Section 5.4(l)* hereof, and those liabilities (or agreements relating thereto) which have theretofore been disclosed to and approved in writing by the Special Limited Partner;

(g) Except as disclosed in the Financial Forecasts, to cause the Partnership to acquire any interest in real property or acquire any item of personal property having a purchase price of more than \$100,000 in the aggregate;

(h) Refinance, prepay or modify any mortgage or long-term liability of the Partnership, including, without limitation, the First Mortgage Loan; *provided, however*, after the end of the Compliance Period, the General Partner may refinance the First Mortgage Loan without the Consent of the Special Limited Partner if the General Partner demonstrates to the reasonable satisfaction of the Limited Partner that (i) following the refinance, the Project will maintain a Debt Coverage Ratio of at least 1.15:1.00 based upon net operating income from the audited financial statements for the most recent Fiscal Year and the maximum mandatory debt service under the Project Loans on a pro forma basis, (ii) the maker of the new loan (the “New Loan”) has determined that the New Loan will have a loan-to-value ratio of not more than 90%, (iii) the New Loan will have a term that does not exceed 40 years, (iv) the New Loan will have a fixed rate of interest (or an interest rate cap or swap agreement is purchased on terms acceptable to the Limited Partner), (v) amortization of principal and interest on the New Loan will be based on a schedule of not less than 20 or more than 40 years commencing after the end of the Compliance Period, (vi) the New Loan will be made by a bank, insurance company or other institutional lender which is not the General Partner or an Affiliate, (vii) the New Loan will not contain any “equity participation” features and will otherwise be on commercially reasonable terms, (viii) all other expenses associated with such refinancing will be paid from the proceeds of the refinancing, and (ix) unless the Partners mutually agree to a different application, any refinancing proceeds shall be applied in accordance with *Section 4.2* of the Partnership Agreement.

(i) Compromise any claim or liability in excess of \$100,000 owed by or to the Partnership;

(j) Make, amend or revoke any tax election, reservation, allocation or certification required of or permitted to be made by the Partnership under the Code or the Regulations, or the State Housing Finance Agency, including, without limitation, any election under Section 42 or Section 754 of the Code. In this regard, the General Partner shall make (and the Special Limited Partner Consents thereto) any elections required or any reasonable elections permitted under Section 42 of the Code requested in writing by the Special Limited Partner;

(k) Change any accounting method or practice of the Partnership;

(l) Take any action which would cause the termination of the Partnership for federal income tax purposes, the treatment of the Partnership as other than a partnership for federal income tax purposes, or the dissolution of the Partnership for state law purposes except as permitted in *Section 10.1*;

(m) Construct any improvements on the Project Property other than those contemplated in the Plans and Specifications (or any modification thereof unless such modification is expressly approved in writing by the Special Limited Partner or conforms to the requirements of *Section 5.3(o)*);

(n) Use or cause the Project Property to be used for any purpose other than as a low income housing development eligible for Tax Credits as contemplated under Section 42 of the Code;

- (o) Except for the Project Loans, mortgage, pledge or encumber any interest in any Partnership Property, including, without limitation, the Project Property;
- (p) Loan any money on behalf of the Partnership or guarantee on behalf of the Partnership the indebtedness of any other Person;
- (q) Change the nature of the business or purpose of the Partnership;
- (r) Hire or retain any Person to manage the Project Property or the Partnership's business;
- (s) Admit any other Person as a Partner;
- (t) Perform any act subjecting the Limited Partner or the Special Limited Partner to liability as a general partner in any jurisdiction;
- (u) Deposit any Partnership funds in any bank, savings and loan or other financial institution whose accounts are not insured by the Federal Deposit Insurance Corporation; *provided, however,* for avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amount on deposit in any particular account are in excess of the Federal Deposit Insurance Corporation insurance limits;
- (v) Commingle any Partnership funds with the funds of (i) any other partnership or limited liability company in which the General Partner is a partner or member, as the case may be or (ii) the General Partner;
- (w) To cause the Partnership to execute or deliver any assignment for the benefit of creditors;
- (x) File a lawsuit on behalf of the Partnership (other than lease enforcement, collection, other routine legal actions in the ordinary course of business of the Partnership or a lawsuit against the Limited Partner);
- (y) To cause the Partnership to hire any employees for any purpose; or
- (z) To cause the Partnership to modify or amend any material term of the Management Agreement, Development Agreement or Construction Contract, or waive any rights of the Partnership thereunder.

### **Section 5.3 Representations, Warranties and Covenants of the General Partner .**

As an inducement to the Limited Partner and the Special Limited Partner to enter into this Partnership Agreement and in addition to the representations, warranties and covenants set forth elsewhere in this Partnership Agreement, the General Partner hereby represents and warrants to the Limited Partner and the Special Limited Partner that the statements below are true as of closing, will be true on the due date for payment of each Installment and, except as otherwise stated below, at all times hereafter. The General Partner shall fully comply with and abide by all of the covenants set forth herein at all times throughout the term of the Partnership's existence.

(a) **Current Partnership Agreement.** The General Partner has previously provided a true, complete and current copy of the Partnership's Original Agreement, together with all amendments thereto, to the Special Limited Partner or its designees, which Original Agreement and amendments reflect all agreements among the Partners of the Partnership prior to its amendment hereby.

(b) **Due Authorizations, Execution and Delivery; Binding Effect.** The execution and delivery of this Partnership Agreement by the General Partner and the performance by the General Partner of the transactions contemplated hereby have been duly authorized by all requisite corporate, partnership or trust actions or proceedings and the consummation of any such transactions with or on behalf of the Partnership will not constitute a breach or violation of, or a default under, the organizational documents of the General Partner or any agreement by which the General Partner or any of its properties is bound, nor constitutes a violation of any law, administrative regulation or court decree. The General Partner is duly organized, validly existing and in good standing under the laws of the state of its formation with power to enter into this Partnership Agreement and to consummate the transactions contemplated hereby. This Partnership Agreement is binding upon and enforceable against the General Partner in accordance with its terms except to the extent that such enforceability may be limited by laws regarding bankruptcy, creditors' rights and general principles of equity. The General Partner, on behalf of the Partnership, is authorized to execute any and all loan agreements, notes, mortgages and security agreements in order to secure loans from any Project Lender and any and all other documents, including but not limited to the Project Documents, required by any Project Lender or any Governmental Agency in connection with each mortgage.

(c) **Valid Partnership; Power of Authority.** The Partnership is and will continue to be a valid limited partnership, duly organized under the laws of the State of Formation, and shall have and shall continue to have full power and authority to acquire the Land and to develop, rehabilitate, operate and maintain the Project Property in accordance with the terms of this Partnership Agreement, and shall have taken and shall continue to take all action under the laws of the State of Formation and any other applicable jurisdiction that is necessary to protect the limited liability of the Limited Partner and the Special Limited Partner and to enable the Partnership to engage in its business.

(d) **Required Consents.** The Partnership has obtained all consents required for the admission of the Limited Partner and the Special Limited Partner to the Partnership, including but not limited to, the consent of the holder(s) of the Project Loans, if necessary, and any required consents of applicable Authorities. No consent is required for the transfer of the Limited Partner's Partnership Interest to a Fund. Notwithstanding the immediately preceding sentence, each of the Limited Partner and the Special Limited Partner agrees that it shall not transfer its Partnership Interest, or any portion of its Partnership Interest, to any of Wentwood Companies, Kay Realty, Hunt Companies, Alden Torch Financial, Affordable Housing Partners, Inc., Affordable Equity Partners, Inc., or Oceanside Capital Advisors (each a "**Prohibited Party**"), or, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Prohibited Party, to an affiliate of a Prohibited Party.

(e) **Ownership of General Partner.** Developer owns and shall continue to own at all times during the term of the Partnership all classes of interests of the General Partner. Vitus Group,

LLC and Scott O. Langan (“**Langan**”) own and shall continue to own at all times during the term of the Partnership all classes of interests in the Developer. Stephen R. Whyte (“**Whyte**”) owns and shall continue to own at all times during the term of the Partnership all classes of interests in Vitus Group, LLC. Notwithstanding the foregoing, it shall not be a violation of the requirements of this Partnership Agreement if (i) Langan transfers all or a portion of his non-managing membership interest in the Developer to one or more trusts for the benefit of Langan, Langan’s spouse, descendants or ancestors as part of his estate planning and/or (ii) Whyte transfers all or a portion of his managing membership interest in the Developer to one or more trusts for the benefit of Whyte, Whyte’s spouse, descendants or ancestors as part of his estate planning, as long as within 90 days of such event a proposal is made to the Special Limited Partner setting forth the proposed new ownership of the Developer or its successor, and such proposal is acceptable to the Special Limited Partner in its sole but reasonable discretion.

(f) **No Violation**. The execution and delivery of the Project Documents, the incurrence of the obligations set forth in any of the Project Documents, and the consummation of the transactions contemplated by any of the Project Documents do not violate any provision of law, any order, judgment or decree of any court binding on the Partnership, the General Partner or any Affiliate(s) thereof, any provision of any indenture, agreement, or other instrument to which the Partnership or the General Partner is a party or by which the Partnership, the General Partner or the Project Property is affected, and are not in conflict with, and will not result in a breach of or constitute a default under any such indenture, agreement, or other instrument or result in creating or imposing any lien, charge, or encumbrance of any nature whatsoever upon the Project Property.

(g) **Compliance with Agreements**. To the best of its knowledge after due inquiry, at the time of the execution of this Partnership Agreement, the General Partner, unless otherwise consented to by the Limited Partner after written notice from the General Partner, either individually or on behalf of the Partnership, has fully complied with all applicable provisions and requirements of any and all contracts, options and other agreements with respect to the purchase of the Land and the buildings and other improvements located on the Land, and the development, financing and operation of the Project Property; it shall take, and/or cause the Partnership to take, all actions as shall be necessary to achieve and maintain continued compliance with the provisions, and fulfill all applicable requirements, of such agreements.

(h) **No Defaults**. The General Partner is not aware of (i) any default or any circumstances which, with the giving of notice or the passage of time, would constitute a default, under any agreement, contract, lease, Project Loan, or other commitment (unless otherwise consented to by the Limited Partner after written notice from the General Partner), or (ii) of any claim, demand, litigation, proceedings or governmental investigation pending or threatened against the General Partner, the Project Property or the Partnership, or related to the business or assets of the General Partner, the Project Property or the Partnership, which claim, demand, litigation, proceeding or governmental investigation could result in any judgment, order, decree, or settlement which would materially adversely affect the business or assets of the General Partner, the Project Property or the Partnership.

(i) **Taxation and Limited Liability**. No event has occurred that has caused and the General Partner will not act in any manner that will cause (i) the Partnership to be treated for federal income tax purposes as an “association” taxable as a corporation, rather than as a

partnership, or (ii) the Limited Partner to be liable for Partnership obligations in excess of its Capital Contributions, plus the limited dollar amount of any deficit restoration obligation agreed to by the Limited Partner pursuant to *Section 10.4*, plus any amount required to be repaid by the Limited Partner to the Partnership pursuant to *Section 6.1* hereof and the Act.

(j) **No Undisclosed Financial Responsibilities.** Neither the Partnership nor the General Partner, either individually or on behalf of the Partnership, has incurred any financial responsibility with respect to the Project Property prior to the date of execution of this Partnership Agreement, other than (i) that disclosed to the Special Limited Partner in writing prior to the date of this Partnership Agreement, or (ii) obligations which will be fully satisfied at or prior to the closing. As of the date hereof and hereafter continuously, unless the Special Limited Partner otherwise provides prior written consent or unless otherwise specifically provided for herein, the only indebtedness of the Partnership with respect to the Project Property is the Project Loans and, if any, Development Deficit Loans, Operating Deficit Loans and Loans permitted under *Section 2.6*. Without limiting the generality of the foregoing, neither the General Partner, any of its Affiliates, nor the Partnership, has entered, or shall enter, into any agreement or contract for any loans (other than the Project Loans) or for the payment of any Project Loan discounts, additional interest, yield maintenance or other interest charges or financing fees, or any agreement providing for the guarantee of payment of any such interest charges or financing fees relating to any Project Loan. The financial statements and other financial data delivered to the Limited Partner in connection with the Project Property and the General Partner, Developer and Guarantor are true, complete and accurate in all material respects. No adverse change has occurred in any such entity's financial position since the date of the financial statements and financial data last delivered to the Limited Partner.

(k) **Nonrecourse; No Personal Liabilities for Loans.** Neither the Partnership nor any Partner has or will have direct or indirect personal liability as maker, guarantor, partner or otherwise with respect to the payment of principal or interest or any other sum due under the Project Loans, except during the construction period and except for those certain exceptions to nonrecourse liability set forth in the First Mortgage Loan Documents.

(l) **Partner or Affiliate Loans.** With the exception of Development Deficit Loans, loans made pursuant to *Section 2.6* and Operating Deficit Loans, neither the Partners nor any Affiliate of a Partner will be a lender to the Partnership unless, based upon the advice of tax counsel or adviser satisfactory to the Special Limited Partner, such loan will not likely adversely affect or cause a material re-allocation among the Partners of Tax Credits or Profits and Losses.

(m) **Aggregate Net Worth of Guarantor.** The Guarantor has and will at all times during the Compliance Period maintain an aggregate net worth (exclusive of their investment in the Partnership), computed on a market value basis, equal to \$5,000,000 (\$1,000,000 of which is held in liquid accounts).

(n) **Construction Contract.** The Construction Contract has been entered into between the Partnership and the General Contractor; no other consideration or fee shall be paid to the General Contractor in its capacity as the General Contractor for the Project Property other than the amounts set forth in the Construction Contract or as evidenced by change orders disclosed in writing to and Consented (unless consent is not required pursuant to (o) below) to by the Special

Limited Partner (and approved by the Project Lenders as necessary); and all change orders to date have been paid in full. In addition, no consideration or fee shall be paid to the Developer or the General Partner by the General Contractor.

(o) **Construction Plans and Specifications.** The General Partner has sent (or as soon as available will send) to the Special Limited Partner or its designees the Plans and Specifications, if any, and all construction schedules, approved construction draws, certifications concerning occupancy, lien notices, project inspection reports, proposed changes and modifications to the Plans and Specifications, all documents pertaining to the Project Loans, and any other information which is relevant to the construction and development of the Project Property. No material change will be made in the Plans and Specifications for the Project without the Consent of the Special Limited Partner; provided, that changes in the Plans and Specifications, the Construction Contract (including change orders thereunder), or any other material contract relating to the development or financing of the Project which (1) do not affect the value or the use of the Project, or (2) do not result in an increase or decrease of more than 10% of the contingency in any one instance and 50% of the contingency in the aggregate between budget line items over the entire construction period, may be made without the Consent of the Special Limited Partner, but the General Partner shall provide the Special Limited Partner with notice thereof prior to making such change. Thereafter, any use of the hard cost contingency (either within the Construction Contract or held as an owner's contingency) requires the Consent of the Special Limited Partner.

(p) **Rehabilitation of Project Property.** The rehabilitation and development of the Project Property shall be undertaken and shall be completed in a timely and workmanlike manner, free from liens (not otherwise bonded over in a cumulative amount not to exceed \$100,000) and defects, in accordance with (i) all applicable requirements of the project loans and the Project Documents, (ii) all applicable requirements of all appropriate governmental entities, and (iii) the Plans and Specifications of the Project Property that have been or shall be hereafter approved by the Special Limited Partner and, if required, the Project Lenders and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the Consent of the Special Limited Partner as required pursuant to this Partnership Agreement and the Project Lenders, if required, and any applicable Authorities, if such approval shall be required; it shall promptly provide copies of all change orders to the Special Limited Partner.

(q) **No Defective Soils Conditions.** To the best of the General Partner's knowledge after due inquiry, there are no defects or conditions of the soil that would have an adverse effect upon the use, occupancy and operation of the Project Property. The soil condition of the Land is such that it will support all of the improvements to be located thereon for its foreseeable life, without the need for unusual or new subsurface excavations, fill, footings, caissons or other installations. The improvements on the Land, as built, will be or are constructed in a manner compatible with the soil condition at the time of construction and all necessary excavations, fills, footings, caissons and other installations were then, have since been and will be provided.

(r) **Public Utilities.** All appropriate roadway and public utilities, including, without limitation, sanitary and storm sewers, water, telephone and electricity, are available to the Project Property, and all easements required in connection therewith have been obtained and filed of public record and the General Partner will use commercially reasonable efforts to keep all such utilities



operating in a manner sufficient to service the Project Property and the residential units contained therein.

(s) **No Defects, Compliance.** Upon completion of the Project Property, there will be no physical or mechanical defects or deficiencies in the condition of the Project Property, including, but not limited to, the roofs, exterior walls or structural components of the Project Property and the heating, air conditioning, plumbing, ventilating, elevator, utility, sprinkler and other mechanical and electrical systems, apparatuses and appliances located in, or about, the Land which would materially and adversely affect the Project Property or any portion thereof. The Project Property is free from infestation by termites or other pests, insects, animals or other vermin and the General Partner will keep and maintain the Project Property in such condition. The Project Property conforms (or will timely conform) to all governmental regulations, including, without limitation, all zoning, building, health, fire and environmental rules, regulations ordinances or requirements or environmental laws, regulations or procedures applicable to the Project Property where the failure to conform would result in a material adverse effect. If at any time the Project benefits from or is otherwise subject to a HUD program, the General Partner shall not cause or permit to occur any circumstances that would (i) give rise to a “flag” affecting the Limited Partner or its Affiliates under HUD’s previous participation certification system, the effect of which would be to adversely impact the ability of the Limited Partner or its Affiliates from participation in HUD loan or subsidy programs; or (ii) result in a determination by HUD that the Project Property has failed to comply with HUD’s minimum standards for physical condition (which under current REAC practice, would mean a score of below 31). Furthermore, the General Partner shall not cause or permit to occur any circumstance that would cause the owner or operator of the Project to lose the benefit of an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA.

(t) **As-Built Survey.** Intentionally Deleted.

(u) **Title, Liens and Encumbrances.** The Partnership owns a fee simple interest in the Land and the buildings and improvements comprising the Project Property and all personal property used in connection therewith, free and clear of all liens and encumbrances other than mortgages and other security instruments securing any of the Project Loans listed as exceptions in the owner’s title insurance policy delivered to the Special Limited Partner on the date of its admission to the Partnership and those liens and encumbrances expressly agreed to in writing by the Special Limited Partner, including pursuant to *Section 5.3(p)*, if any. An owner’s title insurance policy issued by the Title Company or a financially responsible institution acceptable to the Special Limited Partner, in an amount equal to the permanent Project Loans plus the Capital Contribution of the Limited Partner, for the Project Property, in favor of the Partnership, will be issued at or prior to the closing subject only to such easements, covenants, restrictions and such other standard exceptions as are normally included in owner’s title insurance policies and which are Consented to in writing by the Special Limited Partner. The General Partner has not made any misrepresentation or failed to make any disclosure that will or could result in the Partnership lacking title insurance coverage based on imputation of knowledge of the General Partner to the Partnership. The General Partner will deliver the owner’s title insurance policy to the Limited Partner within 30 days of the closing.

(v) **Zoning and Related Matters.** To the best of the General Partner's knowledge, the Project Property conforms (or will timely conform) in all material respects to all applicable laws, including, without limitation, all zoning, building, health, fire and environmental rules and regulations and there are no laws, planning rules, regulations, ordinances, requirements or environmental laws, regulations or procedures applicable to the Project Property that would inhibit or adversely affect the operation of the Project Property as a low income housing development.

(w) **Moratoria; Assessments; Dedications.** At the time of execution of this Partnership Agreement there is, and on the due date for payment of the Second Installment, Third Installment and Fourth Installment there will be, no reassessment (except for real estate property taxes), reclassification, rezoning, proceeding, ordinance or regulation (including amendments and modifications to any of the foregoing) pending or proposed to be imposed, by any Authority or any public or private utility having jurisdiction over the Land which would have a material, adverse effect upon the use or occupancy of the Project Property. At the time of execution of this Partnership Agreement, and on the due date for payment of the Second Installment, Third Installment and Fourth Installment, no special assessments have been levied against the Project Property or by an Authority upon the commencement or completion of any construction, alteration or rehabilitation on or of the Project Property or any portion thereof. Notwithstanding anything to the contrary herein, the General Partner will promptly notify the Special Limited Partner of any such actions, if and as they arise throughout the term of this Agreement. Except as previously disclosed in writing to and approved by the Special Limited Partner, the completion of the improvements, construction, alteration or rehabilitation on or to the Project Property or any portion thereof will not require the dedication of any portion of the Project Property by any Authority. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (w) as long as the Limited Partner continues to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II.**

(x) **Governmental Actions.** To the best of the General Partner's knowledge, there is no official action of any Authority, pending or threatened, which in any way would (i) have an adverse effect on the Partnership, the Project Property, the Limited Partner or the Tax Credits (ii) involve any intended public improvements which improvements may result in any charge in excess of \$10,000 being levied against the Land; or (iii) result in any special assessment, being levied against or assessed upon the Land or the Project Property. To the best of the General Partner's knowledge, there is no existing, proposed or contemplated, plan to widen, modify or realign any street or highway contiguous to the Land. The General Partner will promptly notify the Limited Partner of any such official actions or plans, if and as they arise. Further, the Partners have agreed that there shall be no breach of a representation, warranty or covenant resulting from the occurrence of any circumstance described in this paragraph (x) as long as the Limited Partner continue to receive its expected tax benefits as set forth in the Financial Forecasts attached hereto as **Appendix II.**

(y) **Environmental Conditions.** To the best of the General Partner's knowledge, the Project Property is not in violation of any federal, state or local law, ordinance or regulation relating to any environmental conditions on, under or about the Project Property, including, but not limited to, soil and groundwater conditions or the presence of mold. To the best of the General Partner's knowledge after due inquiry, and except as disclosed in the Phase I (as such term is

defined below in *Section 5.3(z)*), no Hazardous Substance has been used, generated, manufactured, stored or disposed of on, under or about the Project Property, or transported to or from the Project Property.

(z) **Environmental Site Assessment**. In connection with the acquisition and development of the Project Property, the General Partner obtained a Phase I Environmental Site Assessment for the Project Property completed by Braun Intertec Corporation dated July 31, 2020 and a Phase I Environmental Site Assessment for the Project Property completed by Braun Intertec Corporation dated February 8, 2021 (collectively, the “Phase I”), as prudent and appropriate inquiry into the previous ownership and uses of the Project Property consistent with good commercial practice, and to the best of the General Partner’s knowledge and consistent with good commercial practice, such inquiries are sufficient for the Partnership to successfully establish an innocent landowner defense pursuant to Section 101(35) of CERCLA or a bona fide prospective purchaser defense pursuant to Section 101(40) of CERCLA. In addition, nothing has occurred at the Project Property or, to the best of the General Partner’s knowledge, to the surrounding area, which would make the conclusions set forth in the Phase I materially inaccurate and/or materially adversely impact the Project.

(aa) **CERCLA waivers, releases**. Neither the Partnership nor the General Partner, nor to the best of the General Partner’s knowledge any predecessor in title of the Partnership, has given any waiver or release of liability pursuant to CERCLA or any other Environmental Law or any similar applicable state or local law to any person or entity in the chain of title of the Project Property.

(bb) **Management of Project Property**. The General Partner will not, and will cause the Management Agent not to, (1) cause or permit any waste or damage to the Project Property, or (2) allow any tenant to use a residential unit within the Project Property or any of the common areas in any manner which is unlawful, hazardous, unsanitary, noxious or offensive or which unreasonably interferes with the use of the Project Property by the other tenants.

(cc) **Full Disclosure Concerning the Project Property**. All material information concerning the Project Property known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, has been disclosed by the General Partner to the Special Limited Partner and there are no facts or information known to the General Partner or any of its Affiliates, or which should have been known to any of them in the exercise of reasonable care, which would make any of the facts or information submitted by the General Partner to the Special Limited Partner with respect to the Project Property inaccurate, incomplete or misleading in any material respect.

(dd) **Insurance**. The General Partner has caused and will cause the Partnership, the General Contractor, the Architect and the Management Agent to maintain the insurance set forth on **Appendix VI** hereof.

(ee) **Allocation of Tax Credits; Tax Credit Percentage**. The State Housing Finance Agency delivered a valid State Designation with respect to the Tax Credits for the Project Property to the Partnership on June 15, 2021. The Tax Credit percentage for the Tax Credits associated with the acquisition will be 3.08%, which is the rate for November 2020, the month in which the

Partnership acquired the Project Property. The Tax Credit percentage for the Tax Credits associated with the rehabilitation will be 4.00%.

(ff) **Qualification for LIHTC Units.** At all times following the completion of the contemplated improvements to the Project Property, the General Partner shall use its best efforts to operate the Project Property in order to qualify 100% of the LIHTC Units in the Project Property for the Tax Credit with 100% of the tenants of such LIHTC Units qualifying under the appropriate income and rent restrictions of Section 42 of the Code, as the same may be modified pursuant to the Restrictive Covenant.

(gg) **Applicable Income and Rent Restrictions.** The Project Property is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including, without limitation, the tenant income and rent restrictions, applicable to projects generating Tax Credits under Section 42 of the Code. The Partnership will comply with the so-called “40-60 Set-Aside Test” of Code Section 42(g)(1)(B).

(hh) **Projected Tax Credits; Financial Forecasts.** The Projected Tax Credits that the General Partner has projected will be available to the Limited Partner are accurately set forth in **Appendix I**. The Projected Tax Credits are based upon the General Partner’s representation that the Project Property will have Qualified Occupancy. The General Partner further covenants that there is and at all times shall continue to be sufficient eligible basis (as defined in Section 42(d) of the Code) to provide the full amount of the Projected Tax Credits. The Financial Forecasts attached hereto as **Appendix II** are true, complete and accurate in all material respects. Except as permitted herein, there shall be no changes to the operating or construction budget of the Project which would impact the Financial Forecasts without the Consent of the Special Limited Partner. Without limiting the foregoing, (i) the Financial Forecasts accurately allocate the Development Costs between non-depreciable and depreciable costs, and (ii) no portion of the Incentive Management Fee or Developer Fee is allocable to the organization of the Partnership, to the sale of any interests in the Partnership, or to any permanent financing arrangements.

(ii) **No Tax-Exempt Use Property.** The General Partner will not take any action which would cause the Project Property to be treated as tax exempt use property within the meaning of Section 168(h) of the Code.

(jj) **No Abusive Tax Shelter.** The General Partner has not received notice from the IRS that it has considered the General Partner to be involved in any abusive tax shelter and is not aware of any facts, which if known to the IRS, would cause such notice to be issued.

(kk) **Bankruptcy.** No Bankruptcy, including, without limitation, attachments, execution proceedings, assignments for the benefit of creditors, insolvency, reorganization or other proceedings is pending or threatened against the Partnership or the General Partner. The General Partner will not permit such a Bankruptcy to occur.

(ll) **Commitments to Third Parties.** The General Partner is not presently under any commitment to any real estate broker, rental agent, finder, syndicator or other intermediary with respect to the Project or any portion thereof, except for arrangements disclosed in writing to the Special Limited Partner prior to the date hereof.

(mm) **Federal Subsidies**. The Project is federally subsidized as defined in Section 42(i)(2) of the Code.

(nn) **Credit Period**. Intentionally Deleted.

(oo) **Grants**. The Partnership shall not accept any grants without the Consent of the Special Limited Partner.

(pp) **Fair Market Value**. The Project's fair market value, including the value of the tax benefits and favorable financing described in the Financial Forecasts, is reasonably expected to exceed all indebtedness secured by the Project Property at all times after the Project is Placed in Service.

(qq) **Restrictive Covenant**. The term of the Restrictive Covenant will not exceed 40 years. The Project shall be operated in accordance with, and residential units within the Project leased in compliance with, Section 42 of the Code and, on and after the effective date of the Restrictive Covenant, the Restrictive Covenant.

(rr) **Restrictions on Sale or Refinancing**. No restrictions on the sale or refinancing of the Project Property, other than restrictions that may be set forth in the Project Documents, exist as of the date hereof, and except as may be contained in the Restrictive Covenant, the LIHPRHA Use Agreement, the HUD Use Agreement and the HUD Regulatory Agreement encumbering title, no such restrictions shall, at any time while the Limited Partner is a Limited Partner, be placed upon the sale or refinancing of the Project Property.

(ss) **Compliance with Federal Fair Housing Act**. At all times during the term of this Partnership Agreement, the Partnership shall comply with the provisions of the Federal Fair Housing Act, as amended, including, but not limited to, complying with all provisions thereof relating to housing for the elderly.

(tt) **Current Lease Terms**. All current leases (if any) for residential units in the Project Property are and all future leases will be for an initial term of at least one (1) year.

(uu) **Taxpayer Certifications**. On behalf of the Partnership, the General Partner will cause to be filed any and all certifications and other documents on a timely basis with the IRS, the State Housing Finance Agency and all other Authorities, as have been and may be required to support the full amount of Projected Tax Credits.

(vv) **Payment Certificates**. The General Partner shall comply with all of the obligations and requirements contained in the Payment Certificates, including the obligation to obtain the Consent of the Special Limited Partner before accepting any proceeds of the Project Loans.

(ww) **Bonds**.

(1) **Generally**. The General Partner, with the Consent of the Special Limited Partner, shall take such actions as may be necessary (after giving effect to applicable provisions of the Development Agreement) to assure that the percentage of the aggregate basis of the Land and buildings (including site improvements) financed with an obligation

the interest on which is exempt from tax under Section 103 of the Code and which is within the State of Minnesota volume cap shall be not less than 50% as of Construction Completion and to assure that 50% or more of the aggregate basis of each of the buildings (including site improvements) at the Project and the Land attributable thereto are financed with an obligation the interest of which is exempt from tax under Section 103 of the Code and which is within the volume cap of the State of Minnesota. The interest paid on the Bonds is excludable by the recipient thereof from Federal income taxation, and the General Partner has done and performed, or caused to be done and performed, all acts and things necessary or desirable to assure that such interest is exempt; and neither the General Partner nor any other party has permitted at any time or times any of the proceeds of the Bonds or any other funds to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Bonds to be an arbitrage bond as defined in Section 148(a) of the Code. Notwithstanding anything else in this Partnership Agreement to the contrary, if the Developer fails to complete construction of the Project at a total depreciable cost such that the Project does not satisfy the “50% test” under Code Section 42(h)(4)(B), then the General Partner shall cause the Developer Fee to be reduced on a dollar for dollar basis to the extent the payment of such Developer Fee would cause less than 51% of the aggregate cost basis of the construction and the basis of the land on which the construction is located, as such terms are defined in Code Section 42(h)(4)(B), to be financed by the Bonds.

(2) Tax Exempt Financing. The General Partner will not take, or permit to be taken on its behalf, any action that would cause the interest payable on the Bonds to be included in gross income for federal income tax purposes, and will take such action as may be necessary in the opinion of bond counsel to the Bond Issuer to continue such exclusion from gross income including, without limitation, the following:

(A) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, without limitation, the filing of all reports and certifications required by the Restrictive Covenant);

(B) the timely payment to the United States of America of any rebate amount required to be paid by the Bond Issuer or the Partnership pursuant to Section 148(f) of the Code and the Treasury Regulations under Section 148; and

(C) the use of not less than 95% of the net proceeds of the Bonds (within the meaning of Section 142(a) of the Code) for costs to provide a “qualified residential rental project” within the meaning of Section 142(d) of the Code that are properly chargeable to the Partnership’s capital account.

(3) Bonds not Federally Guaranteed. The Bonds are not “federally guaranteed” as defined in Section 149(b) of the Code.

(4) 120% Test. In accordance with Section 147(b) of the Code, the weighted average maturity of the Bonds does not exceed 120% of the weighted average reasonably expected economic life of the facilities (comprising the Project Property) financed with the

net proceeds of the Bonds, determined as the later of the date the Bonds are issued or the date the facilities are expected to be Placed in Service.

(5) **No Related Purchasers.** Neither the Partnership nor any General Partner, nor any related person thereto (within the meaning of Section 147(a)(2) of the Code) will purchase the Bonds pursuant to any arrangement, formal or informal.

(6) **Section 149 Certificate.** The information furnished by the Partnership and used by the Bond Issuer preparing the certificate pursuant to Section 149(e) of the Code is accurate and complete as of the date of issuance of the Bonds.

(7) **Commencement Date.** The acquisition, rehabilitation and equipping of the Project Property were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60<sup>th</sup> day preceding the October 6, 2020 official action of the Bond Issuer with respect to the Project Property, and no obligation for which reimbursement will be sought from proceeds of the Bonds relating to the acquisition, construction or equipping of the Project Property was paid or incurred prior to 60 days prior to such date.

(8) **Repayment of the Bonds.** The Bonds shall not be repaid prior to placement in service of the Project.

(xx) **Depreciation.** Unless the Limited Partner shall specify a different permissible treatment in writing, and except to the extent otherwise required by Section 168(g)(1)(B) of the Code, the Partnership, in accordance with *Section 7.2*, shall depreciate substantially all of its residential rental property, site improvements and personal property costs, respectively, over thirty (30) years, fifteen (15) years and five (5) years for federal income tax purposes. Subject to the provisions of *Section 5.4*, all other elections required or permitted to be made by the Partnership under the Code shall be made by the General Partner with the Consent of the Limited Partner. The General Partner will not make any election under Section 168(k) of the Code to elect out of “bonus depreciation”, unless instructed to do so, in writing, by the Limited Partner. The Partnership did not elect out of bonus depreciation for 2020 and, for avoidance of doubt, any bonus depreciation for which the Partnership is eligible in 2020 will be allocated to the then current Partners in accordance with the terms of the Original Agreement (as such term is defined in *Section 1.1* hereof). The General Partner shall cooperate with the Special Limited Partner to provide documentation necessary to complete the Cost Segregation Study and deliver the Cost Segregation Study by January 31<sup>st</sup> in the year following when the Project is Placed in Service.

(yy) **Designated Nationals.** The General Partner, the Developer, the Guarantor and any of their respective Affiliates that are under contract with respect to the Project (the “Sponsor Entities”): (i) are in compliance with all applicable anti-money laundering laws, including, without limitation, the USA Patriot Act, and the laws administered by the United States Treasury Department’s Office of Foreign Assets Control (“OFAC”), including, without limitation, Executive Order 13224, (ii) are not, nor is any Affiliate of the Sponsor Entities, on the Specially Designated Nationals and Blocked Persons List maintained by OFAC, and (iii) are not otherwise identified by a government entity or legal authority as a person with whom a U.S. Person (as defined below) is prohibited from transacting business. As used herein, “U.S. Person” shall mean

any United States citizen, any permanent resident alien, any entity organized under the laws of the United States (including foreign branches), or any person in the United States.

(zz) **Survival of Representations and Warranties.** All of the representations, warranties and covenants contained herein shall be deemed to be re-made as of the date of each Capital Contribution made by the Limited Partner and shall survive the funding date of each such Capital Contribution. The General Partner shall indemnify and hold harmless the Limited Partner against a breach of any of the foregoing representations, warranties and covenants and any damage, loss or claim caused thereby, including reasonable attorneys' fees and costs and expenses of litigation and collection.

(aaa) **Election under Section 163(j)(7)(B) of the Code.** The General Partner agrees that, unless directed otherwise by the Limited Partner, the Partnership shall make the election under Section 163(j)(7)(B) of the Code to be an Electing Real Property Trade or Business (as such term is defined in Section 163(j)(7)(B) of the Code). In addition, if directed by the Limited Partner, the General Partner shall elect out of bonus depreciation allowed under Section 168(k) of the Code on one or more classes of property for one or more years or if allowable, elect less than the maximum amount of bonus depreciation.

(bbb) **Section 266 Election.** The General Partner may make an election pursuant to Section 266 of the Code to capitalize interest on the Bond Loan and the Permanent Loan, subject to the Consent of the Limited Partner which shall not be unreasonably withheld.

**Section 5.4 Specific Obligations of the General Partner.** Except as otherwise set forth in this Agreement, the General Partner shall, on behalf of and in the name of the Partnership and in addition to any obligations placed upon it elsewhere in this Partnership Agreement, have the following specific obligations:

(a) **Construction Draws.** All Capital Contribution installments made through Construction Completion shall be funded on a monthly draw basis. Concurrently with the date a construction draw request is made to a lender, or when a request for payment of an equity installment of the Limited Partner's Capital Contribution is made during the construction period, the General Partner shall furnish to the Special Limited Partner a copy of any such documents submitted to the lender as part of a construction draw and copies of the following documents:

- (1) a completed hard cost requisition form in the form of standard industry AIA documents G702 and G703, or other pre-approved forms, executed by the General Partner and containing a separate breakdown of soft costs and invoices attached to such form;
- (2) sworn statements of the General Contractor, and unconditional waivers of any lien (subject only to payment for the work set forth therein) covering all work in excess of \$50,000, together with such invoices, contracts or other supporting data as the Special Limited Partner may require to evidence that all costs for which disbursement is sought have been incurred;
- (3) copies of any change orders, whether proposed or executed, which have not been previously furnished to the Special Limited Partner;



- (4) a title certificate date down endorsement or updated title search dated within 15 days of the draw request, showing no new liens or exceptions (other than those approved by the Special Limited Partner or bonded pursuant to Section 5.3(p)) herein, dated as of the date of the construction draw;
- (5) an updated detail of the sources and uses, acceptable in form to the Special Limited Partner and containing information on both the total project and the actual draw requests; and
- (6) receipt of all open items identified on **Appendix IX**, if any, on or before such times as described in **Appendix IX**.

In connection with the construction draws described in this *Section 5.4(a)*, which include a request for the payment of an Installment of the Limited Partner's Capital Contribution, the Special Limited Partner will select an inspecting representative for the Project to perform inspections for the sole benefit of the Limited Partner (the "Inspecting SLP Representative"). The Inspecting SLP Representative shall perform a site inspection for the funding of the Second Installment and no less than twice during the initial six-month period of construction. The Inspecting SLP Representative will be invited to all monthly construction progress meetings with the First Mortgage Lender. The Limited Partner and the Special Limited Partner do not warrant or otherwise endorse the findings of the Inspecting SLP Representative.

(b) **Securities Law Matters.** To the extent required, the General Partner shall prepare and file all appropriate reports for the Partnership with the Securities and Exchange Commission and state securities administrators.

(c) **Limited Partnership Status.** The General Partner shall (i) file such certificates and do such other acts as may be required to qualify and maintain the Partnership as a limited partnership under the Act and to qualify the Partnership to transact business in all such jurisdictions as may be required under applicable provisions of law and (ii) take or cause the Partnership to take all reasonable steps deemed necessary by counsel to the Partnership to assure that the Partnership is at all times classified as a partnership for federal income tax purposes.

(d) **Partnership Representative.** The General Partner shall constitute the "partnership representative" (the "Partnership Representative") for each taxable year of the Partnership under the Revised Partnership Audit Procedures. The Partners have designated Roger Heim to serve as the sole individual through whom the Partnership Representative will act for each taxable year of the Partnership as required by Treas. Reg. §301.6223-1 (the "Designated Individual"). The Designated Individual, pursuant to the acknowledgement attached hereto as **Appendix XII**, hereby agrees to be bound by this *Section 5.4(d)*. If the Designated Individual resigns or is otherwise unsuitable (in the sole and absolute judgement of the Special Limited Partner) to act as the Designated Individual for a taxable year or years (including, without limitation, by reason of death, incapacity, or change of employment), then, to the extent permitted by law, (a) on behalf of the Partnership, the Partnership Representative, in consultation with and with the Consent of the Special Limited Partner, shall nominate an eligible individual to serve as the Designated Individual for such taxable year or years, and (b) the Partnership will take all necessary and appropriate steps

to replace such Designated Individual for such taxable year with the Designated Individual nominated under the preceding clause (a). Notwithstanding the foregoing, the Designated Individual shall resign upon the request of the Partnership Representative or if the Designated Individual (i) leaves the employment of the General Partner or the General Partner's Affiliate (ii) becomes employed by the IRS or (iii) is imprisoned. Any individual designated as the Designated Individual shall act diligently, promptly, and in good faith to perform its duties hereunder, including such actions as may be necessary to collect any data that it needs to minimize the Partnership and any Partners' tax liability in accordance with the Revised Partnership Audit Procedures, which may include the filing of amended returns or, with the Consent of the Special Limited Partner, making Administrative Adjustment Requests, where appropriate. In addition, in the event of any Final Partnership Adjustment occurring under the procedures of the Revised Partnership Audit Procedures, unless the Consent of the Special Limited Partner is obtained for doing otherwise, the Partnership shall timely elect to utilize the alternative procedure described in Section 6226 of the Code (as modified by the 2015 Act), and the Partnership Representative shall provide the IRS and each affected Partner with such information as required by such Section 6226 and any Treasury Regulations promulgated thereunder. Each Partner agrees to cooperate with the Partnership in utilizing the procedures under Section 6226 of the Code whether or not such person is a Partner at the time of a Final Partnership Adjustment. The General Partner's designation as the Partnership Representative shall include the General Partner serving in such capacity after the termination of the Partnership with respect to IRS audits and proceedings. The Partnership Representative and Designated Individual shall comply with any reasonable request given by the Special Limited Partner at any time with regard to making an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions and elections on behalf of the Partnership, or the Limited Partner for any taxable year and shall not make an Opt-Out Election, Push-Out Election, Administrative Adjustment Request or any other tax decisions or elections on behalf of the Partnership, or the Limited Partner for any taxable year without obtaining the Special Limited Partner's prior written Consent. Notwithstanding anything to the contrary contained herein, neither the General Partner, in its capacity as the Partnership Representative, nor the Designated Individual shall take any of the following actions, without first obtaining the Consent of the Special Limited Partner:

- (1) Extend the statute of limitations for assessing or computing any tax liability against the Partnership (or the amount or character of any Partnership tax item);
- (2) Settle any audit with the IRS concerning the adjustment or readjustment of any Partnership tax item; provided, however, if the General Partner is willing to settle an audit but the Limited Partner refuses to consent to such settlement, then the Special Limited Partner shall be responsible for any additional penalties, interest or increased settlement amount payable to the IRS and incurred as a direct result of the Limited Partner's refusal to consent to the General Partner's earlier request for settlement;
- (3) File a request for an administrative adjustment with the IRS at any time or file a petition for judicial review with respect to any IRS adjustment;
- (4) Initiate or settle any judicial review or action concerning the amount or character of any Partnership tax item;

(5) Intervene in any action brought by any other Partner for judicial review of a final adjustment of any Partnership tax item;

(6) Elect any depreciation schedule other than 30 years for the buildings comprising the Project; or

(7) Take any other action that would have the effect of finally resolving a tax matter affecting the rights of the Partnership and its Partners.

The General Partner and Designated Individual shall keep the Special Limited Partner advised of any dispute the Partnership may have with any federal, state or local taxing authority and shall afford the Special Limited Partner the right to participate directly in negotiations with any such taxing authority in an effort to resolve any such dispute.

The Partnership Representative and Designated Individual shall obtain the Consent of the Special Limited Partner before taking any of the actions specified in this *Section 5.4(d)*, regardless of whether the Partnership has been dissolved or any Limited Partner has withdrawn from the Partnership, voluntarily or involuntarily, if the result of such actions would adversely affect the Limited Partner.

Notwithstanding anything to the contrary herein: (i) upon the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement or upon the removal of the General Partner for any reason under *Section 9.6* of this Partnership Agreement, the Limited Partner may replace the Partnership Representative or Designated Individual, (ii) the Partnership Representative and Designated Individual shall have a fiduciary responsibility to protect the interests of the Limited Partner, (iii) prior to appointing any individual to serve in the capacity of Partnership Representative or Designated Individual, that individual shall acknowledge and consent in writing to comply with the provisions of this *Section 5.4(d)*, and (iv) the General Partner shall indemnify, defend and hold the Limited Partner harmless from any loss, cost or expense incurred by the Limited Partner as a result of the failure of the Partnership Representative or Designated Individual to comply with the terms of this *Section 5.4(d)*.

The provisions of this *Section 5.4(d)* and each Partner's obligations under this *Section 5.4(d)* shall survive the termination and/or liquidation of the Partnership and/or the transfer or liquidation of such Partner's interest in the *Partnership*.

(e) **Governmental Filings.** The General Partner shall prepare, sign and submit to the Secretary of the Treasury, the applicable state housing agency and any other governmental authority having jurisdiction over the Project Property, on a timely basis, any and all annual reports, information returns and other certifications and information required by any such governmental agency. The General Partner shall comply with all other applicable requirements of any federal, state or local agency having jurisdiction over the Project Property, including, without limitation, any requirements of any such governmental agency with respect to the funding and maintenance of any operating or capital improvement reserves for the Project Property.

(f) **Bank Accounts.** The General Partner shall establish in the name and on behalf of the Partnership such bank accounts as shall be required to facilitate the operation of the Partnership's business. The Partnership's funds shall not be commingled with any other funds of

the General Partner or any of its Affiliates, including without limitation, any other partnership or limited liability company in which the General Partner is a general partner or managing member. Funds of the Partnership held in bank accounts shall be deposited in one or more accounts maintained in FDIC insured banking institutions approved by the Special Limited Partner; provided, however, for the avoidance of doubt, the General Partner shall not be required to deposit funds in multiple accounts if the amounts on deposit in any particular account are in excess of Federal Deposit Insurance Corporation insurance limits. Promptly upon the request of the Special Limited Partner, the General Partner shall obtain and deliver to the Special Limited Partner full, complete and accurate statements of the amount and status of all Partnership bank accounts and all withdrawals therefrom and deposits thereto.

(g) **Completion Guaranty.**

(1) The General Partner hereby guarantees (and Guarantor, pursuant to the Guaranty Agreement absolutely and unconditionally guarantees) to the Partnership, the Limited Partner and the Special Limited Partner that (a) the Project Property will be constructed in a good and workmanlike manner free and clear of all mechanics' and similar liens not otherwise bonded over in a cumulative amount not to exceed \$100,000, in accordance with the Plans and Specifications and in accordance with the terms, conditions and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property on or before the Construction Completion Date and (b) the payment of all development costs and fees (including if not deferred, the Developer Fee) as well as any Operating Deficits attributable to owning and operating the Partnership and the Project Property until achievement of Stabilized Operations plus the initial funding of the Operating Reserve, the Replacement Reserve and the HUD Working Capital Reserve required herein (collectively referred to herein as "Development Costs"), which may be paid through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonably determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full from Cash Flow prior to the date set forth in Section 2.1(c) of this Partnership Agreement. The obligations of the General Partner under the foregoing sentence include, without limitation, providing all funds required of the Partnership to achieve Construction Completion of the Project Property (to the extent not then available under *Section 4.1* hereof or from the Project Loans or Capital Contributions), including, without limitation, cash equity, and to pay any unanticipated or additional development or construction costs, on and off-site escrows, taxes, insurance premiums, and interest. Such costs will also include a ratable portion of the annual amount of seasonal and/or periodic expenses, including but not limited to utilities, maintenance expenses and real estate taxes, which might reasonably be expected to be incurred on an unequal basis during a full annual period of operation. The repayment of any borrowings arranged by the General Partner to fund its obligations under this *Section 5.4(g)* shall be the sole obligation of the General Partner. Up to \$1,720,410 of payments made by the General Partner under this *Section 5.4(g)* shall be treated as non-interest bearing loans (the "Development Deficit Loans") and shall be repaid in accordance with *Section 4.1* and *Section 4.2*. Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under

this *Section 5.4(g)(1)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(2) In the event that the General Partner (and the Guarantor, pursuant to the Guaranty Agreement) fails to pay Development Costs as required under this *Section 5.4(g)*, an amount not in excess of the total of any remaining unpaid Limited Partner Capital Contribution installments may, in the discretion of the Special Limited Partner, be applied by the Partnership to meet such obligations of the General Partner. Any such direction and application of funds otherwise payable pursuant to *Section 2.2* hereof shall constitute reductions in amounts owed pursuant to *Section 2.2*, and the Limited Partner's obligation to make such installment payments pursuant to *Section 2.2*. Any unpaid Limited Partner Capital Contribution applied by the Partnership to meet the General Partner's obligations shall be deemed to have been paid to the General Partner and subsequently paid by the General Partner in satisfaction of its obligation hereunder. The obligations of the General Partner pursuant to *Section 5.4(g)* shall be satisfied to the extent of the funds applied.

(h) **Operating Reserve, Replacement Reserve and HUD Working Capital Reserve.**

(1) Operating Reserve. The General Partner shall establish and fund (and the Guarantor, pursuant to the Guaranty Agreement, absolutely and unconditionally guarantees) the Operating Reserve in the Operating Reserve Amount with proceeds from the Fourth Installment and other available Project funds. The Operating Reserve shall be held in the Operating Reserve Account at a financial institution selected by the Special Limited Partner, which account shall be maintained during the Compliance Period and may be released in accordance with this *Section 5.4(h)(1)*. The Operating Reserve shall be used to fund operating and debt service deficits and withdrawals shall require the signature of the General Partner and the Consent of the Special Limited Partner for withdrawals (which shall not be unreasonably withheld and shall be deemed given if the Special Limited Partner has not responded within 10 Business Days). Upon exhaustion of the Operating Reserve Account, continuing shortfalls shall be funded from the Operating Deficit Guaranty described below in *Section 5.4(i)*. The Operating Reserve will be held by the Partnership through the end of the Compliance Period. Funds remaining in the Operating Reserve at the end of the Compliance Period will be released and distributed in accordance with *Section 4.1(a)*.

(2) Replacement Reserve. The Replacement Reserve shall be maintained by the Partnership in the Replacement Reserve Account, which Account shall be maintained during the Compliance Period. The Replacement Reserve shall be utilized to pay for the acquisition or replacement of capital improvements or replacements and the cost of repairs to property, and shall require the signature of the General Partner and the approval of the Special Limited Partner for withdrawals for items that are not contained in the approved annual budget and for items not listed in **Appendix VII** hereof ("Ineligible Replacement Items"). Notwithstanding anything contained herein to the contrary, if the First Mortgage Lender controls the Replacement Reserve, the Special Limited Partner shall be notified of any withdrawal, but the Special Limited Partner's Consent shall not be required for withdrawals from the Replacement Reserve that have been approved by the First Mortgage Lender. In those cases where the Special Limited Partner's Consent from the Replacement

Reserve Account is applicable, such Consent shall not unreasonably be withheld, and shall be deemed given if the Special Limited Partner has not responded within ten (10) Business Days.

(3) **HUD Working Capital Reserve.** The General Partner shall cause the Partnership to establish and fund the HUD Working Capital Reserve in the amount of \$210,000 which will be funded with proceeds from the First Installment and other available Project funds into the HUD working capital reserve held by the First Mortgage Lender (the “HUD Working Capital Reserve”). The HUD Working Capital Reserve shall be used for the purposes described in the First Mortgage Loan Documents. The HUD Working Capital Reserve shall be released by the First Mortgage Lender to the Partnership upon Final Endorsement, or such later time as required by the First Mortgage Loan Documents, and any funds remaining in the HUD Working Capital Reserve shall be used by the Partnership to first pay Developer Fee, and if any proceeds are available paying Developer Fee, such proceeds shall be distributed in accordance with *Section 4.1* hereof.

(i) **Operating Deficit Guaranty.** The General Partner is obligated promptly upon the reduction of the Operating Reserve Account to zero to provide, without limitation in amount or duration, funds to the Partnership for Operating Deficits. The Guarantor, pursuant to the Guaranty Agreement, jointly and severally with the General Partner, are obligated promptly upon the reduction of the Operating Reserve Account to zero to provide funds to the Partnership for Operating Deficits except that the Guarantor shall not be obligated to make Operating Deficit Loans under this *Section 5.4(i)* to the extent that the outstanding principal amount of such Operating Deficit Loans exceeds \$440,000 or the Operating Deficit Guaranty Period has expired. Repayment of any letters of credit or other borrowings arranged by the General Partner and/or Guarantor in furtherance of its obligations under this *Section 5.4(i)* shall be the sole obligation of the General Partner and/or Guarantor. Funds made available by the General Partner and/or Guarantor pursuant to this *Section 5.4(i)* and/or the Guaranty Agreement shall be treated as non-interest bearing loans to the Partnership repayable as provided in *Section 4.1* and *Section 4.2* (“Operating Deficit Loans”). Deficits of a temporary nature that are funded by the General Partner or any Guarantor, but for which there is an anticipated source of funds for payment, shall not be considered a payment under this *Section 5.4(i)* or the Guaranty Agreement and any such funding advanced by the General Partner or any Guarantor may be repaid upon the receipt of such anticipated funds.

(j) **Qualified Occupancy.** The Project Property shall achieve Qualified Occupancy on or before the Qualified Occupancy Date.

(k) **Cooperation with Asset Manager.** The General Partner shall cooperate and shall cause the Management Agent to cooperate fully with the Asset Manager so that the Asset Manager may carry out its duties and obligations.

(l) **Permanent Loan Shortfall Guaranty.** The General Partner has or will obtain on behalf of the Partnership the First Mortgage Loan, as more particularly described in Appendix IV. The General Partner shall be obligated to provide funds to the Partnership in the event that the actual proceeds of the First Mortgage Loan or any other loan source are less than the anticipated amount of the First Mortgage Loan or any other such loan or loan proceeds as set forth in the

Financial Forecast (a “Permanent Loan Shortfall”). The Limited Partner shall permit the deferral of additional Developer Fee (provided in the Limited Partner’s reasonable discretion, the Financial Forecasts demonstrate such deferred fee can be paid in full from Cash Flow prior to the expiration of the Compliance Period) to initially fund the Permanent Loan Shortfall. Funds made available pursuant to this *Section 5.4(l)* shall be evidenced by a note (the “Permanent Loan Shortfall Note”) with terms no less favorable than the terms of the First Mortgage Loan or such other loan (as determined by the Special Limited Partner) and shall be repaid as provided in *Section 4.1* and *Section 4.2*. The Permanent Loan Shortfall Note shall be unsecured.

(m) **Syndication and Permanent Financing**. The General Partner shall be and has been responsible for procuring acceptable permanent financing for the Project and for all duties relating to the syndication of the Partnership with the Limited Partner and the Special Limited Partner.

(n) **Special Operating Obligation for Loss or Reduction of HAP Contract**. If, in any year during the Compliance Period, the HAP Contract is not funded or is only partially funded, then the General Partner and the Guarantor, pursuant to the Guaranty Agreement, are obligated to pay to the Partnership through the end of the Compliance Period, an amount equal to the difference between (i) the actual rent collected, and (ii) the amount of rent that would have been collected under the fully funded HAP Contract, increased annually by 2% through the remainder of the Compliance Period. The General Partner and the Guarantor shall not be required to pay any amount under this provision that would be more than necessary to avoid an Operating Deficit that would cause the Project to operate below a 1.0 to 1.0 Debt Coverage Ratio. Any amount paid under this provision shall constitute an Operating Deficit Loan. Additionally, the Special Limited Partner reserves the right to resize the special operating obligation under this *Section 5.4(n)* to assume tenant incomes based on 50% of area median income, if the HAP Contract is not funded or is only partially funded and HUD, under the LIHPRHA Use Agreement, does not permit the area median income for the 62 LIHTC Units to be increased from 50% to 60% of area median income.

**Section 5.5 Fees for Services Rendered**. The Partnership shall pay the following described fees to the Persons that are Affiliates of one or more Partners indicated below:

(a) **Developer Fee**. As provided in the Development Agreement, the Partnership shall pay the Developer Fee to the Developer for the services and obligations described in the Development Agreement.

(b) **Incentive Management Fee**. The Partnership shall pay to the General Partner the Incentive Management Fee in the amount and priority specified in *Section 4.1* and as further provided in the Incentive Management Agreement.

(c) **Incentive Leasing Fee**. The Partnership shall pay the General Partner an Incentive Leasing Fee in the amount and in the priority specified in *Section 4.1* until the Project has achieved Stabilized Operations, as further provided in the Incentive Leasing Agreement.

(d) **Asset Management Fee**. The Asset Management Fee shall be paid annually by the Partnership to the Asset Manager in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided in the Asset Management Services Agreement. The Asset Manager shall not

incur any liability to the General Partner or the Partnership as a result of the Asset Manager's performance of or failure to perform its asset management services. The Asset Manager owes no duty to the General Partner or the Partnership and may be terminated by the Limited Partner only.

(e) **Partnership Management Fee.** The Partnership shall pay to the General Partner the Partnership Management Fee in the amount and priority specified in *Sections 4.1* and *4.2* and as further provided the Partnership Management Agreement.

The Development Agreement, the Incentive Management Agreement, the Partnership Management Agreement and any other agreement entered into by the Partnership, the General Partner or any Affiliate thereof shall specifically provide that such agreement shall be terminable at the election of the Special Limited Partner if the General Partner is removed pursuant to *Section 9.6*.

None of the payments or reimbursements to any of the Persons indicated above shall be considered a distribution of Cash Flow to any Partner and, except as otherwise specifically provided herein, the General Partner may make any such reimbursement or payment prior to any distribution of any Cash Flow to the Partners.

**Section 5.6 Reimbursement of Expenses.** The Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the formation and organization of the Partnership as and to the extent provided in the Financial Forecasts. In addition, except as otherwise provided herein, the Partnership shall reimburse each Partner for all reasonable out-of-pocket costs and expenses incurred by it or its Affiliates in connection with the operation of the Partnership's business, including, but not limited to, reasonable costs and expenses incurred by any such Partner in connection with the exercise of any consent hereunder.

**Section 5.7 Outside Ventures of Partners.** Any Partner may engage in or possess an interest in any other business venture of any type or description, independently or with others (including, without limitation, any venture which may be competitive with the business being conducted by the Partnership) and neither the Partnership, nor any Partner will, by virtue of this Partnership Agreement, have any right, title or interest in or to such outside ventures or the income or other benefits derived therefrom.

**Section 5.8 Dealing With Affiliates.** The General Partner may employ or retain in any capacity any Partner or Affiliate of any Partner so long as the terms upon which such Partner or such Affiliate is employed or retained are commercially reasonable under the circumstances and comparable to those terms which could be obtained from an independent person for comparable services in the area where the Project is located or the Partnership has its principal office.

**Section 5.9 Indemnification of Partnership, Limited Partner and Special Limited Partner.**

(a) The General Partner hereby agrees to defend, indemnify and hold harmless the Partnership, the Limited Partner and the Special Limited Partner and their Affiliates and successors, from and against any loss, claims, demands, liabilities, lawsuits and other proceedings,



judgments, awards, costs and expenses including, without limitation, attorneys' fees or damage (including foreseen and unforeseen damage and consequential damages) arising directly or indirectly out of the presence on, under or about the Project Property of any Hazardous Substance, or the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Project Property.

(b) The General Partner shall indemnify, defend and hold harmless the Limited Partner and the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part, out of a breach of any or all of the representations, warranties and covenants made by the General Partner contained in this Partnership Agreement, including, without limitation, those contained in *Section 5.3* hereof. In addition to the foregoing indemnification, the Limited Partner and/or the Special Limited Partner may pursue any other available legal or equitable remedy against the General Partner with respect to the General Partner's breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Limited Partner's deferral of the payments of its Capital Contributions pursuant to *Section 2.2*.

(c) The General Partner shall indemnify, defend and hold harmless the Limited Partner, the Special Limited Partner and their Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, attorneys' fees, arising directly or indirectly, in whole or in part from any prior letters of intent or equity proposals from other potential tax credit investors that may exist.

(d) The General Partner's obligations described in this *Section 5.9* will survive the termination and/or liquidation of the Partnership provided the loss, claims, demands, liabilities, lawsuits or other proceedings, judgments, awards, costs and expenses including, attorneys' fees or damage arise directly or indirectly from an event that first occurred prior to the termination and/or liquidation of the Partnership.

(e) The Partnership shall indemnify, defend and hold harmless the Limited Partner and Special Limited Partner against any third-party claims or costs sustained or incurred by it arising out of its investment in the Partnership, provided that the same were not the result of any improper action or omission on the part of such Limited Partner, Special Limited Partner or any Affiliate thereof; and provided, further, that the General Partner shall be primarily and concurrently liable for any claims or costs sustained within the scope of either *Section 5.9(a)* or *Section 5.9(b)*.

#### **Section 5.10 Credit Adjusters.**

##### **(a) Basis Adjuster**

(1) If, as of the end of the first year of the Credit Period and based upon Cost Certification by the Accountants, it is determined that the amount of Actual Tax Credits over the Credit Period for the Project will be less than Projected Tax Credits (as adjusted pursuant to *Section 5.10(a)(2)*), hereinafter referred to as a "Permanent Credit Shortfall", then the Limited Partner shall be entitled to a return of its Capital Contributions or, if not

fully paid, a reduction of same commencing with the Installment coming next due and so on until fully offset but only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the “Permanent Credit Shortfall Adjustment”) in an amount equal to the product of (i) the Permanent Credit Shortfall and (ii) \$0.89. The Permanent Credit Shortfall shall mean the amount by which the Actual Tax Credits are or will be less than the Projected Tax Credits over the Credit Period due to (i) the actual Applicable Percentage being less than projected; (ii) the actual Eligible Basis being less than projected; (iii) the actual Qualified Basis as of the end of the first year of the Credit Period being less than projected Qualified Basis; (iv) the actual final allocation of Tax Credits as indicated on IRS Form 8609 being less than the Projected Tax Credits; or (v) any combination of the above. If any Permanent Credit Shortfall Adjustment required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Permanent Credit Shortfall Adjustment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however,* that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Permanent Credit Shortfall Adjustment shall be paid by the General Partner directly to the Limited Partner as a guaranty payment and calculated on an After-Tax Basis, and the General Partner shall not receive any Capital Account credit for such payment; *provided, further,* if such Permanent Credit Shortfall Adjustment is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Permanent Credit Shortfall Adjustment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Permanent Credit Shortfall Adjustment.

(2) In the event that the amount of Actual Tax Credits that will be available, based upon the actual Qualified Basis as of the end of the first year of the Credit Period, the actual Applicable Percentage, and final allocation of Tax Credits, is greater than the Projected Tax Credits, the Limited Partner may, as set forth below, increase its Capital Contribution once during the twelve-month period following Construction Completion in an amount equal to the product of (i) the amount by which the Actual Tax Credits are greater than the Projected Credits over the Credit Period and (ii) \$0.89. The Limited Partner shall pay the amount of such increase at the time of the final installment of Capital Contribution. Notwithstanding the foregoing, the additional Capital Contribution paid pursuant to this *Section 5.10(a)(2)* shall not exceed the Upward Adjuster Cap. To the extent the amount of any increase in the Limited Partner’s Capital Contribution under this *Section 5.10(a)(2)* would exceed the Upward Adjuster Cap, and the Limited Partner does not elect to contribute an amount in excess of the Upward Adjuster Cap, the Interests of the Limited Partner and the General Partner shall each be adjusted so that the additional Tax Credits will be allocated to the General Partner. Any adjustment of Tax Credits under the foregoing sentence shall not reduce the internal rate of return to the Limited Partner below the internal rate of return set forth in the Financial Forecasts.

(3) In the event that any Limited Partner Capital Contribution installments are repaid or reduced or the General Partner payments are required to be made under this *Section 5.10(a)*, the pro forma Financial Forecasts attached hereto as **Appendix II** shall be correspondingly revised and shall be considered amendments and determinative of the “Projected Tax Credits” and other amounts set forth herein if there is a conflict between any amounts set forth therein and in this Partnership Agreement.

(b) **Timing Difference in Tax Credit.**

(1) If, prior to the end of 2023, 100% of the Projected Tax Credits cannot be claimed (as determined by the Accountant) by the Limited Partner in the anticipated Fiscal Year but must be delayed and taken in a later year or years, then the Limited Partner shall be entitled to a reduction of its Capital Contribution commencing with the installment coming next due and so on until fully offset provided that the amount of the offset shall not exceed the amount of the Developer Fee payable in such Capital Contribution and only if the Special Limited Partner determines that such reduction could not result in a reallocation of Tax Credits (the “Timing Reduction”) in an amount equal to \$0.61 for each \$1.00 that the Actual Tax Credits for such years are less than the Projected Tax Credits for such years. This Timing Reduction is designed to compensate the Limited Partner for the reduced present value of such delayed Tax Credits. In order not to adjust under this *Section 5.10(b)* for any shortfall in Tax Credits for which an adjustment shall have been made pursuant to *Section 5.10(a)*, the term “Projected Tax Credit” shall be revised, as provided for in *Section 5.10(a)(3)*, to reflect the actual Applicable Percentage for the Project and the actual Eligible Basis for the Project, but not taking into account any delays in placing the Project, or any portion thereof, in service. If any Timing Reduction required hereunder is not offset as set forth above, then the General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Timing Reduction, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; *provided, however*, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Timing Reduction shall be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such payment; *provided, further*, if such Timing Reduction is solely due to a change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, then any such resulting Timing Reduction shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Timing Reduction. Notwithstanding the foregoing, any Timing Reduction described herein may be offset through the additional deferral of the Developer Fee, provided the Special Limited Partner reasonable determines that the Financial Forecasts demonstrate such deferral of Developer Fee can be paid in full form Cash Flow prior to maturity.

(2) If, prior to the end of 2022, more than 100% of the Projected Tax Credits can be claimed (as determined by the Accountants or by a Final Determination) by the Limited Partner in the anticipated Fiscal Year, then the Limited Partner shall make a Capital Contribution (the “Timing Increase”) in an amount equal to \$0.61 for each \$1.00

that the Actual Tax Credits for such years are more than the Projected Tax Credits for such years. The Limited Partner shall pay the amount of such Timing Increase at the time of the final Capital Contribution. Notwithstanding the foregoing, the additional Capital Contribution paid pursuant to this *Section 5.10(b)(2)* shall not exceed the Upward Timing Adjuster Cap, unless otherwise agreed to by the Limited Partner.

(c) **Material Credit Shortfall.** If, for any Fiscal Year, for any reason whatsoever, but only if such Credit Shortfall has not previously been addressed pursuant to *Section 5.10(a)* and *(b)* hereof, (1) the Actual Tax Credits are, on a cumulative basis, less than the Projected Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* or *(b)*) for such Fiscal Year or (2) the Limited Partner is required to recapture (resulting from other than a transfer of part or all of the Limited Partner's Partnership Interest) all or any part of the Tax Credits claimed by it in any prior Fiscal Year of the Partnership ("Credit Shortfall"), then the General Partner and Guarantor, pursuant to the Guaranty Agreement, shall be obligated, subject to the limitations expressed herein, to pay to the Limited Partner the amount ("Credit Reduction Payment") equal to the sum of: (I) \$1.00 multiplied by the Credit Shortfall; (II) the amount of any interest and/or penalties paid or payable by the Limited Partner as a result of any Recapture Event affecting the foregoing calculation of the Tax Credits recaptured in such Fiscal Year; and (III) 10% of the amounts in *clauses (I)* and *(II)* per annum commencing on the date the Credit Shortfall occurs and continuing until the payment of the amount of such Credit Reduction Payment in full. The General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Credit Reduction Payment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; provided, however, that if the Special Limited Partner reasonably determines that such General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Credit Reduction Payment will be calculated on an After-Tax Basis and paid by the General Partner directly to the Limited Partner as a guaranty payment, and the General Partner shall not receive any Capital Account credit for such repayment. Provided, further, (i) if at any time a Credit Reduction Payment is due under this *Section 5.10(c)* solely due to change in the tax law including the regulations promulgated thereunder or binding governmental interpretations thereof or action or inaction by the Limited Partner, such Credit Reduction Payment shall be paid from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, and (ii) upon the expiration of the Operating Deficit Guaranty Period, Credit Reduction Payments under this *Section 5.10(c)* shall be paid solely from Cash Flow of the Project as provided in *Section 4.1* and *Section 4.2* hereof, and the General Partner and Guarantor shall not otherwise be responsible for the payment of such Credit Reduction Payment, except that the General Partner and Guarantor shall continue to be responsible for the payment of Credit Reduction Payments which result from a Compliance Failure. Notwithstanding the foregoing or any other provision of this Partnership Agreement to the contrary, if the Project is destroyed by fire or other casualty, the Project shall be promptly restored and rebuilt within the time period permitted under Section 42 of the Code provided that, the Project need not be rebuilt if the Limited Partner is repaid its total Capital Contribution together with an after tax return of 9% per annum on such sum commencing on the date(s) the Limited Partner paid its Capital Contribution installments and ending on the date of repayment.

(d) **Failure to Pay; Remedies.** If the General Partner or Guarantor fails to pay any amount payable pursuant to *Section 5.10(a)*, *(b)* or *(c)* above, or the repurchase amount pursuant

to *Section 5.10(e)* below, owing to the Limited Partner within 30 days after written demand of the Limited Partner or the Special Limited Partner, then, in addition to any other rights the Limited Partner or the Special Limited Partner may have, any amounts due and owing to the Limited Partner and the Special Limited Partner shall be paid as follows: (1) First, any sums payable to the General Partner (or any Affiliate thereof) pursuant to the terms of this Partnership Agreement (including, without limitation, Cash Flow and any fees payable by the Partnership to the General Partner or its Affiliates) shall instead be paid to the Limited Partner until such time as all amounts owing to the Limited Partner pursuant to this *Section 5.10* are fully repaid (for purposes of this Partnership Agreement, any sums paid to the Limited Partner pursuant to the immediately preceding sentence shall be deemed to have been paid to the General Partner (or its Affiliates) and subsequently paid by the General Partner (or its Affiliates) to the Limited Partner in satisfaction of its obligations hereunder; (2) Second, the remaining amounts shall be paid to the Limited Partner out of Cash Flow or Net Cash from Sales and Refinancings in accordance with *Section 4.1* and *Section 4.2* hereof; and (3) Third, the remaining amounts shall be paid to the Limited Partner out of the Operating Reserve or any other reserve of the Partnership. The rights and remedies granted to the Limited Partner by this *Section 5.10* shall not be exclusive of, but shall be in addition to, any other rights and remedies granted to the Limited Partner under this Partnership Agreement or by applicable law. The obligations of the General Partner under this *Section 5.10* shall be deemed to have arisen as a consequence of a transaction between the General Partner and the Limited Partner other than in their capacities as Partners and the Capital Accounts or loans of the Partners shall not be affected in any way as a result of the making of any credits or payments hereunder.

(e) **Repurchase.** Notwithstanding anything contained herein to the contrary, in the event that (1) Construction Completion and placement in service of all buildings is not achieved on or before the date required under the Code to preserve the Tax Credits or, if earlier, the date required by the State Housing Finance Agency, (2) the Partnership does not achieve Qualified Occupancy on or before six (6) months following the Qualified Occupancy Date unless any payments required under *Section 5.10* are timely paid, (3) any acceleration of a Project Loan or the commencement of any action to foreclose any mortgage covering the Project or the exercise by any lender to the Project of any power of sale or similar remedy affecting the Project prior to the end of the Operating Deficit Guaranty Period and such action is not stayed, terminated or withdrawn within 30 days or a binding agreement with the holder(s) thereof to effect the same entered into within such period, and any notice of acceleration of indebtedness waived or withdrawn, (4) the Project fails to satisfy the 50% Test as finally determined by the Accountant and approved by the Special Limited Partner or pursuant to an audit by the IRS shall have been financed with the proceeds of the Bonds, (5) the termination of the commitment for the First Mortgage Loan prior to closing and full funding of the First Mortgage Loan unless a reasonable substitute First Mortgage Loan commitment is obtained 30 days after such termination, (6) the Project is not eligible for at least 70% of the Projected Tax Credits, unless the Limited Partner elects instead to accept as cure the full satisfaction of all due Permanent Credit Shortfall Adjustments or the payment of all Credit Reduction Payments under *Section 5.10*, (7) the Partnership does not receive the fully executed IRS Form(s) 8609 by the end of the first full tax year in compliance with the requirements of the Code and the State Housing Finance Agency, (8) the Partnership fails to comply with the “40-60 Set-Aside Test” of Code Section 42(g)(1)(B) or (9) prior to Stabilized Operations, the General Partner or Guarantor files for Bankruptcy, then, in any such event, upon the written request of the Limited Partner (the “Election Notice”), the General Partner shall purchase the Limited Partner’s and the Special Limited Partner’s interests in the Partnership for

an amount equal to the sum of all Capital Contributions actually made to the Partnership by the Limited Partner and Special Limited Partner with interest at the rate of 12% per annum calculated from the date of such Capital Contributions, plus all expenses incurred by the Limited Partner and Special Limited Partner in connection with such repurchase, less the amount of any tax benefit (net of any tax costs, including but not limited to Tax Credit recapture and any Tax Credits claimed by the Limited Partner that may remain subject to potential recapture) or distribution (net of any tax costs) previously received or incurred by the Limited Partner. The General Partner or Guarantor shall pay such amount within 30 days after such written request. Upon receipt of an amount as calculated above, the Limited Partner's interests as a Limited Partner in the Partnership shall terminate, the Limited Partner shall transfer its interest in the Partnership to the General Partner or its designee, and the General Partner shall indemnify and hold harmless the Limited Partner from and against any losses, damages and liabilities to which the Limited Partner (as a result of its participation hereunder) may be subject. Notwithstanding the foregoing, the Limited Partner's rights under this *Section 5.10(e)* will expire upon payment of the Fourth Installment.

(f) **Investor Rights and Remedies.** Notwithstanding anything to the contrary herein and without otherwise limiting any remedies that may be available to the Limited Partner hereunder or at law or in equity, the Limited Partner agrees that (i) as long as the General Partner has fulfilled its obligations under this *Section 5.10(a), (b)* and *(c)*, the Limited Partner shall have no rights to recover additional amounts under this Agreement, to cause the General Partner to purchase its Interest under *Section 5.10(e)* or to exercise its rights to remove the General Partner set forth in *Section 9.6(i)* of this Agreement, due to a failure to receive the Projected Tax Credits, and (ii) if the General Partner has repurchased the Interest of the Limited Partner pursuant to the terms and conditions of *Section 5.10(e)*, the Limited Partner shall thereafter have no rights to payments under *Section 5.10(a), (b)* and *(c)* or to remove the General Partner as set forth in *Section 9.6(i)* of this Agreement. Further, if the Limited Partner removes the General Partner pursuant to the provisions of *Section 9.6(i)* of this Agreement, the Limited Partner agrees not to exercise its rights under *Section 5.10(e)* of this Agreement.

(g) **Survival.** The obligations of the General Partner and its Affiliates prescribed or described in this *Section 5.10* will survive subject to limitations on duration herein the termination and liquidation of the Partnership.

## **ARTICLE 6** **POWERS, RIGHTS AND DUTIES OF LIMITED PARTNERS**

**Section 6.1 Limitation of Liability.** Except as otherwise required under the Act (relating to a partner's liability under certain circumstances to refund to the Partnership distributions of cash previously made to it as a return of capital), the Limited Partner and the Special Limited Partner are not personally liable for any loss or liability of the Partnership beyond the amount of their applicable agreed-upon Capital Contributions.

**Section 6.2 No Participation in Management.** Except as otherwise expressly provided in this Partnership Agreement, the Limited Partner and the Special Limited Partner do not and shall not participate in the operation, management, or control of the Partnership's business, transact any business in the Partnership's name, or have any power to sign documents for or otherwise bind the Partnership.

**ARTICLE 7**  
**ACCOUNTING AND FISCAL AFFAIRS**

**Section 7.1 Books of Account.** The General Partner shall keep proper books of account for the Partnership and shall elect the accrual method of accounting for federal tax purposes. The General Partner shall keep these books of account at the principal office of the Partnership and make them available at all times for examination and copying by the Special Limited Partner or its authorized representative. The General Partner shall retain such books of account for six years after the termination of the Partnership. All decisions as to the Fiscal Year and accounting methods to be used by the Partnership may be made only with the Consent of the Special Limited Partner.

All documents referenced in Article 7 or **Appendix X** are to be submitted to the Special Limited Partner and Integratec Services, LLC, the host and service provider of the Tax Credit Asset Management Software. Documents should be electronically submitted to crea@integratec.biz as they become due.

The General Partner shall retain all documentation with respect to initial qualification of the Project as a qualified Tax Credit project until the later of six years after completion of the Project's Compliance Period or as long as is required under applicable law. The General Partner shall retain such other documentation relating to the continuing Tax Credit qualification of the Project for at least six years, unless requested by the Special Limited Partner, the or required by applicable law to retain such documentation for a longer period. The General Partner shall retain copies of tax returns and reports for the Partnership for as long as required by applicable law.

After initial lease-up of the Project, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted an audit or review of the Partnership's compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. In addition, the Limited Partner may, at the Limited Partner's own expense, conduct or cause to be conducted a site visit of the Project. The General Partner shall cooperate with any such audit by making appropriate personnel of the General Partner and Management Agent and all books and records of the Project and Partnership available to the Limited Partner or its representatives at the offices of the Partnership during regular business hours. The General Partner shall cooperate with any site visit by making appropriate personnel of the General Partner and Management Agent available to the Limited Partner or its representative at the Project site during regular business hours.

The General Partner acknowledges and agrees that it shall cooperate fully and in good faith, and shall instruct and cause the Management Agent to cooperate fully and in good faith, with the Special Limited Partner with respect to their monitoring of the Partnership's operation of the Project Property, including the review of and compliance with Tax Credit related laws and regulations.

**Section 7.2 Reports.** The General Partner shall prepare and deliver to or shall cause to be prepared and delivered to the Special Limited Partner the reports set forth on **Appendix X** attached hereto and incorporated herein, and any other reports as may be reasonably requested by the Special Limited Partner.

### **Section 7.3 Budgets and General Disclosure.**

The General Partner shall keep the Special Limited Partner informed concerning the general state of the business and financial condition of the Partnership and shall, upon the reasonable request of the Special Limited Partner, furnish to the Special Limited Partner full information, accounts, and documentation concerning the state of the business and financial condition of the Partnership.

(a) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the occurrence of such event:

(1) there is a material default by the Partnership under any loan, grant, subsidy, construction or property management documents or in payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt; and

(2) receipt of any notice of the IRS, State Housing Finance Agency, HUD or any other federal, state or local entity having jurisdiction over the Project involving the Partnership which notice could have a material, adverse effect upon the Partnership, the Project or the Limited Partner.

(b) The General Partner shall deliver to the Special Limited Partner a detailed report of any of the following events within 10 days after the end of any calendar quarter during which such event occurred:

(1) any reserve has been reduced or terminated by application of funds therein for purposes materially different from those for which such reserves was established;

(2) the General Partner has received any notice of a material fact which may substantially affect further distributions; and

(3) any Partner has pledged or collateralized its interest in the Partnership.

### **Section 7.4 Failure to Provide Information.**

(a) Failure to provide reports within the time requirements set forth under this *Article 7* or as set forth in **Appendix X** will result in a penalty of \$50 per report per day. The foregoing penalty shall begin accruing on the 10<sup>th</sup> day after the Special Limited Partner has delivered notice to the General Partner of the reporting delinquency. Any resulting penalty shall be due and payable to the Special Limited Partner immediately upon demand. The Special Limited Partner may deliver notices electronically to the last known email address of a principal of the General Partner.

(b) If the General Partner fails to provide in a timely manner any information, reports or data required to be provided by the General Partner under this *Article 7* or **Appendix X**, or otherwise fails to perform its obligations under this *Article 7* or **Appendix X**, then, in addition to any remedies the Limited Partner may have under this Partnership Agreement or applicable law, the Partnership shall not make any distributions or payments to the General Partner pursuant to



*Section 4.1* or *Section 4.2* until such time as such information, reports or data have been provided or such other obligations have been fulfilled.

(c) The Special Limited Partner has the right to require the General Partner to remove the Accountant and the right to approve a replacement accountant if the obligations and / or reporting requirements under *Article 7* or **Appendix X** are not being met.

## **ARTICLE 8**

### **TRANSFER OF LIMITED PARTNER'S PARTNERSHIP INTERESTS**

#### **Section 8.1**                    **Voluntary Transfers.**

(a) The Limited Partner may at any time make a Voluntary Transfer of all or any part of its Partnership Interests, so long as such Voluntary Transfer complies with the following conditions: (a) the General Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the transferor Limited Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (b) all requirements of applicable state and federal securities laws have been complied with; (c) such Voluntary Transfer will not result in the Partnership's loss of any exemption (federal or state) from the registration of the sale of securities relied upon in its offering of the Partnership Interests; (d) such Voluntary Transfer will not result in the Partnership being classified as an "association" which is taxable as a corporation for federal income tax purposes; (e) the Limited Partner reimburses the Partnership for any reasonable third-party costs and expenses incurred by the Partnership in connection with such Voluntary Transfer; and (f) such transfer is not made to any entity listed in the last sentence of *Section 5.3(d)*. Upon compliance with all of the conditions of this *Section 8.1(a)*, such Voluntary Transfer of the Limited Partner's Partnership Interests shall bind the Partnership and the General Partner, and no such transfer shall cause the dissolution and termination of the Partnership and the transferee shall automatically be deemed to be an Assignee with respect to such Partnership Interests. Notwithstanding the foregoing, the General Partner acknowledges that the Limited Partner may borrow funds to make its Capital Contribution payments and that the lender of such funds may require a security interest in the Limited Partner's interest. The General Partner's consent to such a security interest shall not be required.

(b) Notwithstanding the foregoing, any other provision of the Agreement: (1) the Limited Partner may pledge, without the consent of the General Partner or any other Person, its Partnership Interest to Fifth Third Bank as agent (together with its successors and/or assigns in such capacity, "FTB") to secure a loan to an affiliate of the Limited Partner, the proceeds of which have been used by the Limited Partner to make its Capital Contribution to the Partnership (the "FTB Pledge"); (2) FTB shall have the rights of a secured party to retain, sell or transfer the Partnership Interest so pledged in accordance with the FTB Pledge; (3) FTB shall have the right to transfer or assign its rights hereunder and under the FTB Pledge without the consent of the General Partner or any other Person; (4) in the event of any enforcement of the FTB Pledge and the foreclosure upon or other disposition of the Partnership Interest, FTB (or its nominee, successor, transferee or assignee) shall be immediately, automatically and unconditionally admitted as a Substituted Limited Partner, subject only to its execution of an agreement to be bound by this Agreement; and, (5) so long as the FTB Pledge shall not have been released in

accordance with its terms, (a) the Partnership Interests will not be, and will not become “investment property” or held in a “securities account” (within the meaning of the Uniform Commercial Code of the State (the “UCC”)) and will be, and will remain, “general intangibles” within the meaning of Article 9 of the UCC and (b) any action by any Partner to cause any of the Partnership Interests to be deemed to be or to be treated as a “security” or as “investment property” or to be held in a “securities account” within the meanings of Article 8 and Article 9, respectively, of the UCC, shall be void and of no effect. Further, the General Partner shall provide FTB with reasonable notice of and the right to cure, within a reasonable cure period, any default by the Limited Partner to make its Capital Contribution as described in *Section 2.2(b)*, and upon such cure, release any lien by the Partnership on the Limited Partner interest (if any) and consent to the transfer of such Limited Partner interest to FTB or such other entity as FTB may reasonably determine. FTB, as agent, is an intended third party beneficiary of this section.

**Section 8.2 General Partner’s Consent to Substitution as a Limited Partner.**

(a) In addition to the requirements set forth in *Section 8.1*, an Assignee of a Limited Partner’s Partnership Interests shall not become a Substituted Limited Partner, unless and until the General Partner Consents to such substitution, which consent may not be unreasonably withheld, delayed or conditioned; provided that no such consent shall be required for the substitution of an Assignee that is an Affiliate of the Limited Partner or who is controlled by any such Affiliate, or to any other Person provided that CREA SLP, LLC remains the Special Limited Partner hereunder. The General Partner shall duly file for record any required amended certificate of limited partnership reflecting such substitution in such public offices as shall be required under the Act. The effective date of the substitution of the Assignee as a Substituted Limited Partner shall be the date on which the General Partner provides its consent, if required, or the date of the assignment to such Affiliated Assignee, as the case may be.

(b) If the General Partner’s consent is required but the General Partner does not consent to the substitution of an Assignee of the Limited Partner’s Partnership Interests, then the transferor Limited Partner retains all the rights of a transferor of a partnership interest under the Act and, except as otherwise provided in *Section 8.4*, the Assignee shall not be treated as owning any interest in the Partnership. In particular, an Assignee of the Limited Partner’s Partnership Interests who is not admitted as a Substituted Limited Partner under this *Section 8.2* shall not be entitled to: (1) require any accounting of the Partnership’s transactions; (2) inspect the Partnership’s books and records; (3) require any information from the Partnership; or (4) exercise any privilege or right of the Limited Partner that is not specifically granted to a nonsubstituted transfer of a partnership interest under the Act.

(c) The Partners hereby agree that upon the substitution of an Assignee of the Limited Partner’s Partnership Interests, the transferor Limited Partner shall be released from any and all obligations and liabilities under this Partnership Agreement arising on or after the date of said substitution, provided that all Capital Contributions, whether or not due as of the date of such substitution, have been made by the Limited Partner.

**Section 8.3 Involuntary Transfers.** The Involuntary Transfer of all or any part of the Limited Partner’s Partnership Interests shall not cause the dissolution and termination of the Partnership, but rather the business of the Partnership shall be continued without interruption in

accordance with the provisions of this *Section 8.3*. Upon an Involuntary Transfer of all or any part of the Limited Partner's Partnership Interests, the Limited Partner's successor or legal representative shall automatically be deemed to be a Substituted Limited Partner.

**Section 8.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of the Limited Partner's Partnership Interests is recognized by the Partnership under this Article 8, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the General Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. All distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee.

**Section 8.5 Disposition of Project.**

(a) The General Partner shall not transfer, sell or otherwise dispose of the Project to any Person except in accordance with this *Section 8.5*. During the Compliance Period, the General Partner shall obtain the Consent of the Special Limited Partner and any Requisite Approvals prior to the transfer or sale of the Project. At the conclusion of the Compliance Period, the General Partner or its designated Affiliate shall have the right to purchase the Project exercisable by written notice to the Special Limited Partner within two (2) years after the conclusion of the Compliance Period, for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Project, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership and (D) Exit Taxes.

(b) The purchase of the Project Property shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

**Section 8.6 Option to Acquire Limited Partner's and Special Limited Partner's Partnership Interests**

(a) The Limited Partner and the Special Limited Partner hereby grant to the General Partner or its designated Affiliate the option, commencing on January 1 of the year following the close of the Credit Period and ending two years thereafter (the "Post-Credit Period Option Period"), with the Consent (not to be unreasonably withheld, delayed or conditioned) of and by written notice to the Limited Partner, to purchase their respective interests in the Partnership (each, a "Partnership Interest") for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or

- (2) the book Capital Account of the Limited Partner and Special Limited Partner plus the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, plus (B) the Credit Deficiency amount, plus (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership, plus (D) any amounts owed to the Special Limited Partner and the Limited Partner under the Guaranty Agreement, plus (E) any unpaid Asset Management Fee.

The foregoing option is contingent on the Consent of the Limited Partner (not to be unreasonably withheld, delayed or conditioned). When determining whether to grant its Consent, the Limited Partner will consider the following: (i) the financial position of the General Partner and the Guarantor provided; however, the financial position of the General Partner and Guarantor shall be deemed sufficient by the Limited Partner as long as the General Partner and Guarantor have, in the aggregate, a net worth of \$5,000,000 and a liquidity of \$1,000,000; (ii) whether the Project has achieved a 1.15 Debt Coverage Ratio over the 12 month period immediately preceding the exercise of the option; (iii) the execution and delivery of an indemnification agreement from the General Partner and the Guarantor in form and content acceptable to the Limited Partner, with respect to Tax Credit recapture; (iv) whether there are any outstanding guarantee obligations; (v) whether there has been any material reduction in the cumulative tax benefits contained in the Financial Forecasts which would not be entirely offset by the proceeds to the Limited Partner from the exercise of this option; and (vi) whether any event of default exists or is anticipated under any of the Project Documents. Notwithstanding the foregoing, as an alternative to providing the information required in romanette (i), (ii), (iii), (iv), (v) or (vi) above, the General Partner and Guarantor may provide a commercially reasonable Tax Credit recapture insurance product reasonably acceptable to the Limited Partner, and the Limited Partner's acceptance of such a Tax Credit recapture product shall be the Consent of the Limited Partner to the option's exercise.

(b) Commencing on January 1 of the year following the close of the Compliance Period and ending two years thereafter (the "Post-Compliance Period Option Period"), the General Partner or its designated Affiliate shall have the right to purchase the Partnership Interests exercisable by written notice to the Special Limited Partner, provided that the General Partner has not exercised its rights under Section 8.6(a), for a purchase price equal to the greater of:

- (1) the Fair Market Value of the Partnership Interests of the Limited Partner and the Special Limited Partner, or
- (2) the sum of (A) the total outstanding indebtedness of the Partnership secured by liens on the Project, (B) the Credit Deficiency amount, (C) any amounts owed to the Limited Partner to repay any loans made by the Limited Partner to the Partnership, (D) any unpaid Asset Management Fee, and (E) Exit Taxes.

(c) The foregoing options to acquire any additional Partnership Interest shall lapse if notice of exercise is not given during the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable, or closing does not occur within 180 days following the close of the Post-Credit Period Option Period or Post-Compliance Period Option Period, as applicable.

The purchase of any additional Partnership Interests shall also be subject to and closed in accordance with the provisions set forth in **Appendix III**, attached hereto and incorporated herein.

Notwithstanding anything in this *Section 8.6* to the contrary, the General Partner must concurrently acquire the Partnership Interests of the Limited Partner and the Special Limited Partner.

**Section 8.7 Put Option.** At any time after the expiration of the Credit Period, the Limited Partner may require that the Partnership purchase the Limited Partner's Interest and the Special Limited Partner's Interest, subject to all then existing liens and encumbrances to title, for an amount equal to \$100 (the "Put Option"). To exercise the Put Option, the Limited Partner must deliver to the General Partner an irrevocable written notice of such exercise. The purchase by the Partnership will be closed within 60 days after the later of (i) the Limited Partner's exercise of such right, or (ii) the receipt of all required consents, if any. Any conveyance from the Limited Partner and the Special Limited Partner to the Partnership under this *Section 8.7* will be made by quitclaim transfer, without representation or warranty of any kind by the Limited Partner or the Special Limited Partner except that the Limited Partner and the Special Limited Partner will represent that such Partner has not previously transferred its Interest and such Partner's Interest is free of liens or encumbrances other than those contemplated by the Partnership's Project Loans and/or by this Partnership Agreement (but in all events the transferred Interest shall be free of the FTB Pledge). The Limited Partner and the Special Limited Partner agree that the Partnership will have no liability for any costs, expenses, damages or fees to the Limited Partner or the Special Limited Partner as a result of the exercise of the Put Option, including, but not limited to, recapture or lost Tax Credits. Notwithstanding the foregoing, the indemnification and guaranty obligations hereunder and under the Guaranty Agreement shall not terminate as a result of the exercise of the Put Option and the General Partner shall continue to provide reports and information described herein from and after the exercise of the Put Option until the expiration of the Compliance Period.

## **ARTICLE 9**

### **TRANSFER OF GENERAL PARTNER'S PARTNERSHIP INTERESTS**

**Section 9.1 Voluntary Transfers.** The Partnership will not recognize any Voluntary Transfer of a General Partner's Partnership Interests and any such attempted Voluntary Transfer shall be invalid and ineffective as to the Partnership and the Limited Partner, unless and until: (a) the proposed transfer is of all the Partnership Interests owned by the General Partner; (b) the Special Limited Partner has received a written instrument of transfer of all such Partnership Interests, which instrument shall be signed by the General Partner and the transferee and shall contain the name and address of the transferee and the transferee's express acceptance of an agreement to be bound by all of the terms and conditions of this Partnership Agreement; (c) the General Partner has paid or caused to be paid all costs related to such Voluntary Transfer, including, without limitation, the reimbursement of all legal fees and expenses incurred by the Partnership in connection with such transfer; (d) such Voluntary Transfer will not result in the termination of the Partnership for Federal income tax purposes; (e) such Voluntary Transfer will not result in the Partnership being classified as an "association" which is taxable as a corporation for Federal income tax purposes; (f) the Partnership receives an opinion of legal counsel to the effect of clause (e); (g) will not result in a loss of Tax Credits to the Limited Partner; and (h) the Special Limited Partner has consented in writing to such Voluntary Transfer, which consent shall

not be unreasonably withheld, with the understanding that the Limited Partner has entered into this Partnership Agreement with the General Partner in reliance upon the unique knowledge, experience and expertise of the General Partner, its principals, officers, members, and affiliates in the planning and implementation of the Project and in the area of affordable housing and development in general. The foregoing restriction on transfer is based in part on the above factors.

Upon compliance with this *Section 9.1*, such transfer of the General Partner's Partnership Interests shall bind the Partnership and the Limited Partner and no such Voluntary Transfer shall cause the termination of the Partnership. In addition, effective as of the date of full compliance with the requirements of this *Section 9.1*, the transferee of the General Partner's Partnership Interests shall be admitted as a new General Partner of the Partnership and shall be vested with all the powers and obligations with respect to the management of the Partnership as are granted to and placed upon the transferor General Partner under this Partnership Agreement.

Each of the Limited Partner and the Special Limited Partner hereby acknowledges, agrees, and consents to (i) the General Partner's signing, delivery, and performance of the foregoing Pledge and Security Agreement (General Partner) dated as of July 8, 2021 (the "GP Pledge Agreement"); (ii) the General Partner's grant of a security interest to the Bridge Lender in its Partnership Interest and the other collateral described in the GP Pledge Agreement; and (iii) the Bridge Lender's enforcement of all of its rights and remedies under the GP Pledge Agreement.

**Section 9.2 Involuntary Transfers.** An Involuntary Transfer of the General Partner's Partnership Interests at such time as there is more than one General Partner shall not dissolve the Partnership, but rather the business of the Partnership shall be continued without interruption and all of the management powers and authority granted herein to the General Partner making such Involuntary Transfer shall automatically be placed upon the remaining General Partner(s), unless the Limited Partner otherwise elects within 30 days after the occurrence of such Involuntary Transfer to dissolve the Partnership and have the Partnership's affairs and business wound up and terminated pursuant to Article 10. An Involuntary Transfer of the General Partner's Partnership Interests when there is no other General Partner in existence will dissolve the Partnership and the Partnership's affairs and business shall be wound up and terminated under Article 10, unless the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner pursuant to the provisions of *Section 9.3*.

**Section 9.3 Continuation of Partnership After Involuntary Transfer of General Partner's Partnership Interests.** Upon an Involuntary Transfer of the last remaining General Partner's Partnership Interests, the Partnership shall be dissolved and the affairs and business of the Partnership shall be wound up and terminated under Article 10, unless within 90 days after the occurrence of such Involuntary Transfer, the Limited Partner agrees in writing to the continuation of the business of the Partnership and the appointment of a new General Partner. Unless such an election is made within such 90-day period, the Partnership shall conduct only those activities that are necessary to wind up and terminate its affairs and business. If such an election is made within such 90-day period, then: (a) the reconstituted partnership shall continue until the end of the term of the Partnership's existence set forth in this Partnership Agreement; and (b) immediately upon its receipt of cash in an amount equal to the then positive balance in its Capital Account (but not less than \$100), the former General Partner shall automatically (and without the need for the execution of any further documentation) be deemed to have relinquished its entire Partnership

Interest, with such relinquished Partnership Interest being automatically allocated to the new General Partner.

**Section 9.4 Distributions and Allocations with Respect to Transferred Partnership Interests.** If any transfer (whether a Voluntary or Involuntary Transfer) of a General Partner's Partnership Interests is recognized by the Partnership under this Article 9, then all allocations of Profits and Losses attributable to the transferred Partnership Interests shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal period, using any convention or method of allocation selected by the Special Limited Partner which is then permitted under Section 706 of the Code and the Regulations promulgated thereunder. Any distributions of Cash Flow made prior to the effective date of any such transfer shall be made to the transferor and any such distributions made after the effective date of such transfer shall be made to the transferee. Neither the Partnership, the Limited Partner nor the Special Limited Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this *Section 9.4*.

**Section 9.5 Voluntary Withdrawal.**

The General Partner shall not be permitted to withdraw from the Partnership without the Consent of the Limited Partner.

**Section 9.6 Removal of the General Partner.** The Special Limited Partner shall have the right to remove the General Partner for any of the following reasons:

- (a) any fraud, gross negligence or intentional misconduct of the General Partner; or
- (b) any act by the General Partner outside the scope of its duties or obligations under this Partnership Agreement or any breach by the General Partner of any fiduciary duty to the Partnership, the Special Limited Partner or the Limited Partner, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (c) the inaccuracy of any representation or warranty of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Section 5.3*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (d) the breach by the General Partner of any covenant or obligation of the General Partner contained in this Partnership Agreement, including without limitation those contained in *Sections 5.3* and *5.4*, that the Special Limited Partner reasonably determines has, or with the passage of time could have, a material adverse effect on the Partnership, the Project, the Limited Partner or the Special Limited Partner; or
- (e) any action or inaction by the General Partner or any Affiliate of the General Partner that the Special Limited Partner reasonably determines has, or with the passage of time could, (i) cause the termination of the Partnership for federal income tax

purposes (except to the extent such action is expressly authorized herein), (ii) cause the Partnership to be treated for federal tax purposes as an association taxable as a corporation, (iii) violate any federal or state securities laws, (iv) cause the Partnership to fail to qualify as a partnership under the Act, (v) cause the Limited Partner or the Special Limited Partner to be liable for Partnership obligations in excess of its Capital Contribution, (vi) qualify as an event of removal or withdrawal with respect to the General Partner under the Act, or (vii) otherwise substantially reduce tax benefits or substantially increase tax liabilities of the Limited Partner (unless the reduction of tax benefits or substantial increase in tax liabilities is addressed through payments to the Limited Partner under *Section 5.10*); or

- (f) any construction cost overruns or Operating Deficits are incurred by the Partnership and not funded to the extent required hereunder under this Partnership Agreement or the Guaranty Agreement; or
- (g) a default occurs under a Project Loan and such default is not cured or waived by the lender within any applicable cure period; or
- (h) any lender to the Partnership or other creditor of the Partnership files a foreclosure or other creditor's action for exercise of control over the Project or the rents therefrom, or the filing of a bankruptcy petition or similar creditor's action by or against the Partnership or the General Partner, which petition or similar action is not withdrawn, vacated or dismissed within 60 days after filing; or
- (i) the Partnership suffers a recapture of 30% or more of the Tax Credits and resulting adjusters are not paid to the Limited Partner in a timely manner in accordance with the terms and conditions of the Partnership Agreement; provided however that the payment of resulting adjusters may be used as a method for curing this reason for removal of the General Partner on only one occasion; or
- (j) the General Partner fails to timely and promptly discharge the Management Agent pursuant to *Section 9.7*; or
- (k) any payment is required to be made to the Limited Partner or the Partnership by the General Partner or the Guarantor under this Agreement, the Guaranty Agreement or the Development Agreement but is not timely made; or
- (l) the occurrence of an "Event of Default" under the Guaranty Agreement, taking into account any applicable cure periods; or
- (m) the General Partner allows a transfer of a controlling interest in itself, other than pursuant to *Section 5.3(e)*, or otherwise breaches the representations contained in *Section 5.3(e)* of this Partnership Agreement, without the Consent of the Special Limited Partner; or
- (n) the commencement by the General Partner of a case in bankruptcy or insolvency or for compromise, adjustment or other relief under the laws of the United States or of any state relating to the relief of debtors; or



- (o) the failure of the General Partner to obtain, within 60 days of service of summons upon the General Partner, the dismissal of any case commenced against the General Partner (i) for the appointment of a trustee for the General Partner, or any of its property or (ii) in bankruptcy or insolvency or for compromise adjustment or other relief under the laws of the United States or any state relating to the relief of debtors; or
- (p) failure by the General Partner to prepare or cause to be prepared properly and to deliver or cause to be delivered in its entirety any reporting required under this Agreement; or
- (q) [Intentionally deleted]; or
- (r) failure to operate the Project in accordance with the requirements of Section 42 of the Code and the Project Loans.

The removal of the General Partner shall be effective immediately upon the receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(a), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), or *(j)*, or if the Partnership files a bankruptcy or similar relief from creditors' action. The removal of the General Partner shall be effective 30 days after the General Partner's receipt of written notice from the Special Limited Partner specifying the reason for such removal if the reason for such removal is a default under *Section 9.6(b), (c), (d), (e), (f), (k), (l), (m), (n), (o), (p)* and *(r)* and the General Partner does not cure the default specified in such notice within such 30-day period; provided, however, that if a default cannot be reasonably cured within 30 days, the General Partner shall not be removed if the General Partner commences such cure within 30 days and proceeds in good faith to cure diligently thereafter, provided that the cure is completed within 60 days from the General Partner's receipt of written notice of such default (or such lesser period as is required to cure the default), and the failure to cure such default within a shorter time period does not have a material adverse effect on the Partnership, the Property, or the Limited Partner. For the purposes of determining the effect of the removal of the General Partner upon the Partnership and the General Partner's continuing interest in the Partnership, such removal shall be treated as an Involuntary Transfer of the General Partner's Partnership Interests pursuant to *Sections 9.2 and 9.3* hereof; provided, however, that notwithstanding such removal, the General Partner shall remain liable to the Partnership and the Limited Partner for (i) all obligations and liabilities (including, without limitation, its obligations to make any payments pursuant to *Sections 5.4(g), 5.4(i), 5.4(l), 5.4(n)* and *5.10* of this Partnership Agreement and liabilities resulting from any breach of any of the representations and warranties set forth in *Section 5.3* of this Partnership Agreement) incurred by it as the General Partner before the effective date of such removal but shall be free of any obligations and liabilities incurred on account of Partnership activities from and after the time of such removal and (ii) all damages and other amounts recoverable or payable hereunder or under applicable law by or to the Partnership or the Limited Partner or the as a result of the occurrence of the event giving rise to such removal.

The General Partner hereby irrevocably appoints the Special Limited Partner and the Asset Manager as its attorney-in-fact to take all actions to effectuate the removal of the General Partner

if the reason for such removal is a default under *Section 9.6(e), (g), (h), (i)* (if General Partner has paid the resulting adjuster as a method for curing this reason for removal on a prior occasion), *(m), (n), (o)* or *(p)* and the designation of a replacement General Partner, which appointment is coupled with an interest and is irrevocable.

If the General Partner is removed as a Partner of the Partnership pursuant to this *Section 9.6*, the General Partner shall not be entitled to payment of any further installments of the Incentive Management Fee or Partnership Management Fee. Nothing in this paragraph shall limit or reduce the rights of the removed General Partner or any Affiliate thereof to receive any other fees for services previously performed or repayment of Operating Deficit Loans, if any, in accordance with the terms thereof; provided, however, the parties hereto agree that any cash distributions, fees, loans or other payments otherwise distributable or owed to the removed General Partner or its Affiliates (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan) shall, in the sole and absolute discretion of the substitute General Partner, be satisfied by applying all or any of such amounts to any unpaid obligation of the removed General Partner pursuant to this Agreement (including, without limitation, any obligations of the removed General Partner pursuant to *Sections 5.4(g), 5.4(i), 5.4(l)* and *5.10*). Notwithstanding the foregoing, if the General Partner is removed pursuant to *Section 9.6(a)*, the General Partner or its Affiliates will not be entitled to payment of any fees whether for services previously performed or for future services (including, without limitation, the amount of any unpaid Developer Fee or Operating Deficit Loan).

**Section 9.7 Removal of Management Agent.** The Management Agent may not be removed or replaced without the Consent of the Special Limited Partner, and none of the services to be performed by the Management Agent under the Management Agreement may be assigned or subcontracted to third parties without the Consent of the Special Limited Partner. The General Partner shall, upon the written request of the Special Limited Partner, promptly remove the Management Agent. In addition, the General Partner shall cause every management agreement to contain a provision that either the Partnership or the Management Agent may terminate the management agreement with or without cause upon 30 days' written notice.

**Section 9.8 Security Interest.** In order to secure each and every obligation of the General Partner to the Partnership and the Limited Partner under this Partnership Agreement, the General Partner shall enter into a subordinate Security Agreement with the Partnership and the Limited Partner pursuant to which the General Partner shall pledge all of its right, title and interest in and to its interest in the Partnership to the Partnership and the Limited Partner.

## **ARTICLE 10** **DISSOLUTION, WINDING UP AND TERMINATION**

**Section 10.1 Dissolution.** The Partnership shall dissolve upon the occurrence of any of the following events:

- (a) The expiration of the term of the Partnership's existence;
- (b) The sale or other disposition of all or substantially all of the Partnership Property and the Partnership's receipt of all or substantially all of the proceeds therefrom;

(c) The Partners' mutual election to dissolve the Partnership;

(d) The failure of the Limited Partner to agree in writing at the time and in the manner provided in *Section 9.3* to the continuation of the business of the Partnership and the appointment of a new General Partner upon the occurrence of an Involuntary Transfer of the last remaining General Partner's Partnership Interests or the removal of the General Partner; or

(e) The Limited Partner's election pursuant to *Section 9.2* to dissolve the Partnership upon the occurrence of an Involuntary Transfer of a General Partner's Partnership Interests, notwithstanding the fact that one or more other General Partners is in existence at such time.

**Section 10.2 Winding Up and Termination.** Upon the dissolution of the Partnership, the affairs and business of the Partnership will be wound up and terminated, the Partnership's liabilities shall be discharged and the Partnership Property shall be liquidated and distributed in the manner hereinafter described. A reasonable time shall be allowed for the orderly winding up of the affairs and business of the Partnership so as to enable the Partnership to minimize the normal losses attendant to the winding up and termination period. The winding up and termination of the affairs and business of the Partnership shall be supervised and conducted by the Liquidation Manager. The Liquidation Manager shall have the exclusive power and authority to act on behalf of the Partnership to wind up and terminate the affairs and business of the Partnership, to sell and convey the Partnership Property to such Persons (including, without limitation, any Partner or any Affiliate thereof) for such consideration and upon such terms and conditions as it deems necessary or appropriate, to discharge the Partnership's liabilities, to establish any reserves that it deems necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership, and to distribute the liquidation proceeds in the manner hereinafter described.

Upon completion of the winding up of the affairs and business of the Partnership, the liquidation proceeds shall be distributed by the Liquidation Manager in the following manner and order of priority:

(a) First, such liquidation proceeds shall be applied to the payment of debts and liabilities of the Partnership (excluding any loans made by a Partner or an Affiliate of a Partner and any unpaid Developer Fee) and the payment of expenses of the winding up of the affairs and business of the Partnership;

(b) Second, such liquidation proceeds shall be applied to the setting up of any reserves (to be held by the Liquidation Manager in an interest-bearing account) which the Liquidation Manager may deem necessary or appropriate for any contingent or unforeseen liabilities or obligations of the Partnership; *provided, however,* that at the expiration of such time as the Liquidation Manager deems necessary or appropriate, the balance of such reserves remaining after payment of such liabilities or obligations shall be distributed by the Liquidation Manager in the manner hereinafter set forth in this *Section 10.2*;

(c) Third, such liquidation proceeds shall be paid to satisfy debts and liabilities owed to Partners and their Affiliates described in *Section 4.2(a)* and in accordance with the priority set forth therein; and

(d) Fourth, such liquidation proceeds shall be distributed in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations to the Partners pro rata in accordance with their positive Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods, including, without limitation, the allocations to be made under *Section 3.2(m)* hereof.

**Section 10.3 Compliance with Liquidation Requirements of Regulations.** If the Partnership is “liquidated” within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, then:

(a) Distributions shall be made pursuant to *Section 10.2* (if such “liquidation” constitutes a dissolution and termination of the Partnership) to the Partners who have positive balances in their Capital Accounts in compliance with Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations;

(b) If the General Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the General Partner shall contribute to the capital of the Partnership the amount necessary to restore the balance in its Capital Account to zero;

(c) If the Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including, without limitation, the taxable year in which such liquidation occurs), then the Limited Partner may contribute to the capital of the Partnership the lesser of (i) such deficit balance in its Capital Account or (ii) the limited dollar amount, if any, of its Capital Account deficit which the Limited Partner has expressly agreed in writing to restore to the capital of the Partnership pursuant to *Section 10.4*; and

(d) Any such contribution by a Partner shall be made on or before the later of (1) the end of the taxable year of the “liquidation” or (2) 90 days after the date of the “liquidation”.

Notwithstanding anything to the contrary contained in this *Section 10.3*, in the event the Partnership is “liquidated” within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, but such “liquidation” does not constitute a dissolution and termination of the Partnership pursuant to this Partnership Agreement, then no distributions shall be made pursuant to *Section 10.2*. Instead, the Partnership shall be deemed to have contributed the Partnership Property to a new “Partnership” (which shall be deemed to be the “Partnership” governed by this Partnership Agreement) in exchange for an interest in the new “Partnership” and, immediately thereafter, the Partnership liquidates by distributing interests in the new “Partnership” to the then Partners in proportion to their respective interests in the Partnership, followed by the continuation of the business by the new “Partnership.” The Capital Accounts of the then Partners of the Partnership shall be their Capital Accounts of the new “Partnership.”

**Section 10.4 Rights and Obligations of Limited Partner Upon Dissolution.** Except as otherwise expressly provided in *Section 10.3(b)*, the Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution. Except as otherwise elected by the Limited Partner, pursuant to this *Section 10.4*, the Limited Partner shall not have any obligation to restore any deficit in its Capital Account upon the liquidation of the Partnership. Notwithstanding

anything to the contrary contained in this Partnership Agreement, the Limited Partner may from time to time elect to be obligated to restore a deficit in its Capital Account up to a limited dollar amount. Such election shall be made by the Limited Partner's delivery of a written notice of election to the General Partner no later than December 31 of the taxable year for which such election is to be effective and shall specify the dollar amount of the deficit in its Capital Account that the Limited Partner agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Limited Partner's Partnership Interests.

**Section 10.5 Waiver of Partition.** Each Partner hereby waives any right to partition or cause a partition of the Partnership Property.

**Section 10.6 Final Accounting.** The Liquidation Manager shall furnish each of the Partners with a final accounting and a statement setting forth the assets and liabilities of the Partnership as of the date of the completion of the winding up and termination of the affairs and business of the Partnership. Upon completion of the distribution plan set forth in this Article 10, the Liquidation Manager shall cause to be executed by the appropriate parties and filed in such public offices as shall be required under the Act a cancellation of the articles of organization of the Partnership and any and all other documents which the Liquidation Manager deems necessary or appropriate to effect the dissolution and termination of the Partnership.

## **ARTICLE 11** **MISCELLANEOUS**

**Section 11.1 Notices and Addresses.** All notices, consents, demands, requests, or other communications which may or are required to be given hereunder shall be in writing and shall be sent by email, overnight courier or United States mail, registered or certified, return receipt requested, postage prepaid to the Partnership at the address of the Partnership's principal office and to the Partners at the addresses set forth after their respective names in Article 1. The Partnership and any Partner may change its or his address for the giving of notices, consents, demands, requests, or other communications by delivering written notice to the Partnership and to all the Partners of its or his new address for such purpose. Notices, consents, demands, requests, or other communications shall be deemed given or served on the day when sent by email, one Business Day after deposit with an overnight courier or three Business Days after deposit in the United States mail.

**Section 11.2 Pronouns and Plurals.** All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

**Section 11.3 Counterparts; Electronic or Facsimile Transmission of Signature.** This Partnership Agreement may be executed in several counterparts all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart. The manual signature of any party hereto that is transmitted to any other party or its counsel by facsimile or electronic transmission (e.g., "pdf" or "tif") shall be deemed for all purposes to be an original signature.

**Section 11.4 Applicable Law.** This Partnership Agreement and the rights of the Partners hereunder shall be interpreted in accordance with the laws of the State of Minnesota.

**Section 11.5 Successors.** This Partnership Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.

**Section 11.6 Severability.** The invalidity or unenforceability of any provision of this Partnership Agreement in a particular respect shall not affect the validity and enforceability of any other provisions of this Partnership Agreement or of the same provision in any other respect.

**Section 11.7 Exhibits.** All exhibits or appendices attached hereto or referred to herein are incorporated herein by this reference.

**Section 11.8 Limitation of Benefits.** It is the explicit intention of the Partners that no person or entity other than the Partners and the Partnership is or shall be entitled to bring any action or enforce any provision of this Partnership Agreement against any Partner or the Partnership, and that the covenant, undertakings and agreements set forth in this Partnership Agreement shall be solely for the benefit of and shall be enforceable only by the Partners and the Partnership (and theirs or its respective successors and assigns as permitted hereunder).

**Section 11.9 Entire Agreement.** This Partnership Agreement contains the entire agreement among the Partners with respect to the transactions contemplated herein and supersedes all prior or written agreements, commitments, or understandings with respect to the matters provided for herein and therein.

**Section 11.10 Broker's Commission and Indemnity.** Each of the parties to this Partnership Agreement warrants and represents to the others that it has not been introduced to the other party by any broker, nor has it been in contact with any real estate or business broker or consultant otherwise than as specified in this Partnership Agreement regarding the Project Property; and each party to this Partnership Agreement agrees to indemnify and hold the other party harmless from all suits, claims, actions, loss or expenses (including reasonable attorney's fees) arising from the claim of any person to a brokerage or other commission in connection with this transaction and resulting from contact with or other action, alleged or actual, of the indemnifying party.

**Section 11.11 Amendment of Partnership Agreement.** Except as otherwise provided for herein, this Partnership Agreement may not be amended in whole or in part except by a written instrument signed by the General Partner, the Limited Partner and the Special Limited Partner.

**Section 11.12 Signage.** The General Partner shall cause the name of the Limited Partner and the Special Limited Partner and the logo of the Limited Partner and the Special Limited Partner (the forms of which shall be provided to the General Partner) to be prominently displayed on all construction site signage for the Project. The Special Limited Partner, in its discretion and subject to reasonable local regulations and proper safety and construction concerns and needs, may install a construction sign on the Project at its own cost and expense.

**Section 11.13 No Third Party Beneficiary.** No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party until such Capital Contribution is made or loan is advanced nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

**Section 11.14 Waivers.** Any forbearance by the Limited Partner in exercising any right or remedy under this Partnership Agreement, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy, or the subsequent exercise of any right or remedy. The enforcement by the Limited Partner of any right herein shall not constitute an election by the Limited Partner of remedies so as to preclude the exercise of any other right available to the Limited Partner.

**Section 11.15 HUD REQUIRED PROVISIONS.** Notwithstanding any clause or provision in the Certificate or in this Agreement to the contrary, and so long as HUD, or its successors or assigns, insures or holds any loan to Borrower (the “**HUD-insured Loan**”), including the loan secured by a mortgage lien on Shakopee Village Apartments (FHA Project No. 092-35867) in Shakopee, Minnesota (the “**Project**”) the following provisions apply:

The terms listed below shall have the following definitions:

“**Borrower**” means Shakopee Housing Partners, LP, a Minnesota limited partnership.

“**Lender**” means the entity identified as “Lender” in the first paragraph of the Security Instrument, or any subsequent holder of the HUD-insured Note.

“**HUD Regulatory Agreement**” means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“**Security Instrument**” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended, or modified.

“**HUD-insured Note**” means the Note executed by Borrower, and described in the Security Instrument, including all schedules riders, allonges and agenda, as such Note may be amended from time to time.

Requirements:

1. If any of the provisions of Borrower's organizational documents conflict with the terms of the HUD-insured Note, Security Instrument, or HUD Regulatory Agreement ("**HUD Loan Documents**"), the provisions of the HUD Loan Documents shall control.
2. No provision required by HUD to be inserted into the organizational documents may be amended without HUD's prior written approval. Additionally, if there is a conflict between any HUD-required provisions inserted into this Agreement and any other provision of this Agreement, the terms of the HUD-required provisions will govern; and if there is a conflict between any of the provisions in the Certificate and any HUD-required provisions of this Agreement, the HUD-required provisions will govern.
3. Unless otherwise approved in writing by HUD, Borrower's business and purpose shall consist solely of the acquisition, ownership, operation and maintenance of the Project and activities incidental thereto. Borrower shall not engage in any other business or activity. The Project shall be the sole asset of the Borrower entity, which shall not own any other real estate other than the aforesaid Project.
4. None of the following will have any force or effect without the prior written consent of HUD:
  - a. Any amendment that modifies the term of Borrower's existence;
  - b. Any amendment that triggers application of the HUD previous participation certification requirements (as set forth in Form HUD2530, Previous Participation Certification, or 24 CFR § 200.210, et seq.);
  - c. Any amendment that in any way affects the HUD Loan Documents;
  - d. Except as permitted under section 10 below, any amendment that would authorize any member, manager, partner, owner, officer or director, other than the one previously authorized by HUD, to bind the Borrower entity for any matters concerning the Project which require HUD's consent or approval;
  - e. A change that is subject to the HUD TPA requirements contained in Chapter 13 of HUD Handbook 4350.1 REV-1;
  - f. Any change in a guarantor of any obligation to HUD (including those obligations arising from violations of the HUD Regulatory Agreement); and
  - g. Any grant of a security interest in any of the Borrower's assets or mortgaged property.
5. Borrower is authorized to execute a Note and Security Instrument in order to secure a loan to be insured by HUD and to execute the HUD Regulatory Agreement and other documents required by the Secretary in connection with the HUD-insured loan.



6. Any incoming partner of Borrower must, as a condition of receiving an interest in the Borrower entity, agree in writing to be subject to the HUD Loan Documents and all other documents required in connection with the HUD-insured loan, to the same extent and on the same terms as the other members/partners/owners.
7. Upon any dissolution, no title or right to possession and control of the Project, and no right to collect the rents from the Project, shall pass to any person or entity that is not bound by the HUD Regulatory Agreement in a manner satisfactory to HUD.
8. The key principals of Borrower identified in the HUD Regulatory Agreement are liable in their individual capacities to HUD to the extent set forth in the HUD Regulatory Agreement.
9. Borrower shall not voluntarily be dissolved or converted to another form of entity without the prior written approval of HUD.
10. Borrower has designated Stephen R. Whyte as its official representative for all matters concerning the Project that require HUD consent or approval. The signature of this representative will bind the Borrower entity in all such matters. Borrower may, from time to time, appoint a new representative to perform this function, provided that the individual so appointed is 2530 Previous Participation Certified, and within three business days of doing so, will provide HUD with written notification of the name, address, and telephone number of its new representative. When a person other than the person identified above has full or partial authority with respect to management of the Project, Borrower will promptly provide HUD with the name of that person and the nature of that person's management authority.
11. Any obligation of the Partnership to provide indemnification under this Agreement shall be limited to (i) amounts mandated by state law, if any, (ii) coverage afforded under any liability insurance carried by the Partnership and (iii) available surplus cash of the Borrower as defined in the HUD Regulatory Agreement. Until funds from a permitted source for payment of indemnification costs are available for payment, the Partnership shall not (a) pay funds to any members, partners, officers and directors, or (b) pay the deductible on an indemnification policy for any members, partners, officers and directors.
12. No amendment or change to the obligations or rights of the Limited Partner, as approved by HUD, may be made without the prior written consent of HUD and Lender.

*[Remainder of this page intentionally left blank]*

The Partners have executed this Partnership Agreement as of the date first set forth at the beginning hereof.

**GENERAL PARTNER:**

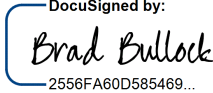
SHAKOPEE HOUSING MANAGEMENT, LLC, a  
Minnesota limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Sole Member and  
Manager

By:   
\_\_\_\_\_  
Stephen R. Whyte, President

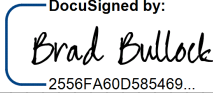
**LIMITED PARTNER:**

CREA SHAKOPEE VILLAGE APARTMENTS,  
LLC, a Delaware limited liability company

By:   
2556FA60D585469...  
Bradley J. Bullock, Senior Vice President

**SPECIAL LIMITED PARTNER:**

CREA SLP, LLC, an Indiana limited liability  
company

By:   
2556FA60D585469...  
Bradley J. Bullock, Senior Vice President

The Withdrawing Limited Partner hereby withdraws from the Partnership:

**WITHDRAWING LIMITED PARTNER:**



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Stephen R. Whyte, an individual

**APPENDIX I**  
**DEFINITIONS**

The capitalized words and phrases used in the Partnership Agreement shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of such words and phrases):

“50% Test” means receipt by the Special Limited Partner of evidence satisfactory to the Special Limited Partner demonstrating that the Partnership has met the “50% test” as set forth in Section 42(h)(4)(B) of the Code with respect to the Project.

“Accountant” means initially Propp Christensen Caniglia LLP or such certified public accountant as is selected by the General Partner with the Consent of the Special Limited Partner; *provided, however*, that the General Partner shall not need to obtain the Special Limited Partner’s Consent if the General Partner selects a “Big 4” accounting firm as the Accountant.

“Act” means the Uniform Limited Partnership Act of the State of Formation, as may be amended from time to time during the term of the Partnership.

“Actual Tax Credits” means the Tax Credits to which the Limited Partner is actually entitled pursuant to Section 42 of the Code.

“Adjusted Capital Account Deficit” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account as of the end of the relevant Fiscal Year after giving effect to the following adjustments: (a) the credit to such Capital Account of any amounts which such Partner is obligated to restore under this Partnership Agreement or is deemed to be obligated to restore pursuant to either (i) the penultimate sentences of Treas. Reg. Section 1.704-2(g)(1) and Treas. Reg. Section 1.704-2(i)(5), or (ii) amounts that the Partner is treated as obligated to restore under Treas. Reg. Section 1.704-1(b)(2)(ii)(c); and (b) the debit to such Capital Account of the amounts described in Treas. Reg. Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treas. Reg. Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Administrative Adjustment Request” means an administrative adjustment request under Section 6227 of the Code.

“Affiliate” means, with respect to any Person: (a) any Person directly or indirectly controlling, controlled by or under common control with such Person; (b) any Person owning or controlling 10% or more of the outstanding voting securities of such Person; (c) any officer, director or general partner of such Person; or (d) any Person who is an officer, director, general partner, trustee or holder of 10% or more of the voting securities of any Person described in clauses (a) through (c) of this subparagraph.

“After-Tax Basis” means, with respect to any payment to be received by the Limited Partner, the amount of such initial payment supplemented by a further payment or payments so that, after deducting from such payments the amount of all income taxes imposed on the members of the Limited Partner by any governmental authority with respect to such payments, the remaining

balance of such payments shall be equal to the amount of the initial payment. For purposes of the calculation under this definition, it will be assumed that the federal and state taxes are payable at the actual marginal federal and state income tax rates.

“Applicable Federal Rate” means the minimum interest rate that can be charged without attribution of interest under Code Section 1274(d).

“Applicable Percentage” means the percentages specified in *Section 5.3(ee)*.

“Architect” means Kaas Wilson Architects, LLC, a Minnesota limited liability company.

“Asset Management Fee” means an annual fee equal to \$6,200 per year, earned on an annual basis, beginning on the date that the full amount of the First Installment of the Capital Contribution has been contributed (with a pro-rata share of such fee earned for any partial calendar year) and increasing annually at a rate of 3.0%. The Asset Management Fee is not covered by the Operating Deficit Guaranty and shall be payable only out of available Cash Flow and Net Cash from Sales and Refinancings as provided in *Sections 4.1* and *4.2* and shall accrue, without interest, until there is sufficient cash available to pay any accrued Asset Management Fee as set forth in *Sections 4.1* and *4.2*.

“Asset Manager” means CREA, LLC, an Indiana limited liability company, or its designee.

“Assignee” means a Person to whom all or any part of the Limited Partner’s Partnership Interest has been transferred in a manner permitted under this Partnership Agreement, but who has not been admitted to the Partnership as a Substituted Limited Partner with respect to the transferred Partnership Interest.

“Authority” or “Authorities” means any nation or government, any state or other political subdivision thereof, and any entity exercising its executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including but not limited to, any federal, state or municipal department, commission, board, bureau, agency, court, tribunal or instrumentality.

“Bankruptcy” or “Bankrupt” as to any Person means the filing of a petition for relief as to any such Person as debtor or bankrupt under the Bankruptcy Act of 1898 or the Bankruptcy Code of 1978 or like provision of law (except if such petition is contested by such Person and has been dismissed within 60 days); insolvency of such Person as finally determined by a court proceeding; filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of his assets; commencement of any proceedings relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereinafter in effect, either by such Person or by another, provided that if such proceeding is commenced by another, such Person indicates his approval of such proceeding, consents thereto or acquiesces therein, or such proceeding is contested by such Person and has not been finally dismissed within 60 days.

“Bond Issuer” means the City of Shakopee, Minnesota.

“Bond Loan” means the loan described as such in Appendix IV, based on loan documents acceptable to the Special Limited Partner.

“Bond Loan Documents” means the loan documents evidencing the Bonds and the Bond Loan.

“Bonds” means the Multifamily Housing Revenue Bonds (Shakopee Village Apartments Project) Series 2021 in the amount of \$6,825,000. The Bonds have been publicly offered.

“Bond Trustee” means U.S. Bank National Association, a national banking association.

“Bridge Lender” means The Huntington National Bank.

“Bridge Loan” means the loan described as such in Appendix IV, based on loan documents acceptable to the Special Limited Partner.

“Bridge Loan Documents” means the loan documents evidencing the Bridge Loan. The Special Limited Partner has approved the Bridge Loan Documents delivered to it in connection the closing of the Bridge Loan on the date hereof.

“Building Permits” means all permits required by the relevant Authority to construct the Project.

“Business Day” means a day during which commercial banks in Indianapolis, Indiana are open for business of the nature required for the implementation or administration of this Agreement.

“Capital Account” means, with respect to any Partner, the capital account maintained for such Partner pursuant to *Section 2.5*.

“Capital Contribution” means, with respect to any Partner, the amount of money and the fair market value of property contributed to the Partnership by such Partner.

“Capital Transaction” means any transaction the proceeds of which are not includable in determining Cash Flow, including without limitation the sale, refinancing or other disposition of all or substantially all of the assets of the Partnership, but excluding loans to the Partnership (other than a refinancing of any Project Loan) and contributions of capital to the Partnership by the Partners.

“Cash Flow” means the excess of Cash Receipts over Operating Expenses. Cash Flow shall be determined separately for each Fiscal Year or portion thereof.

“Cash Receipts” means all cash receipts of the Partnership from whatever source derived other than from a Capital Transaction, including, without limitation, rental revenues and government subsidy payments. In addition, any amount released without restriction from any escrow or reserve account in a Fiscal Year (including, without limitation, the Operating Reserve and the Replacement Reserve) shall be considered a cash receipt of the Partnership for such Fiscal Year. Notwithstanding the foregoing, at the election of the General Partner, Cash Receipts received

near the end of a Fiscal Year and intended for use in meeting the Partnership's obligations (including the cost of acquiring assets or paying debts or expenses) in the subsequent Fiscal Year shall not be deemed to be received until such following Fiscal Year.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.

“Certificate” has the meaning set forth in the Recitals.

“Code” means the Internal Revenue Code of 1986, as the same may be amended from time to time (or any corresponding provisions of any successor law).

“Compliance Failure” means the failure of the Project to qualify as a low income Project within the meaning of Section 42(g) of the Code or the failure of any unit in the Project to qualify as a low income unit within the meaning of Section 42(g) of the Code due to the action or inaction of the General Partner and/or the Management Agent. Compliance Failure shall not include foreclosure.

“Compliance Period” means, with respect to the Project Property, the 15-year compliance period specified in Section 42(i)(1) of the Code.

“Consent” means the prior written consent or approval of the party for which consent is sought, which consent, unless otherwise specifically provided herein, may be given or withheld in such party's sole discretion.

“Construction Completion” means completion of the Project free and clear of all mechanics' and similar liens (except for liens which have been bonded over or insured over up to \$100,000), in accordance with the Plans and Specifications and in accordance with the terms, conditions and provisions of the Project Loans, and this Partnership Agreement, and equipping the Project Property with all necessary and appropriate fixtures, equipment and personal property together with receipt of copies of the Building Permits signed by the relevant local authorities (to evidence satisfactory inspection and approval of the rehabilitation of the Project and permanent certificates of occupancy) and satisfactory resolution of each action item referenced in the Environmental Clearance Letter.

“Construction Completion Date” means May 31, 2022.

“Construction Contract” means the construction contract in the guaranteed maximum amount of \$2,672,346 (including all exhibits and attachments thereto) to be entered into between the Partnership and the General Contractor, pursuant to which the Project Property is to be rehabilitated. Such Construction Contract, and any amendments thereto, shall be subject to the Consent of the Special Limited Partner, which, except for future amendments, shall be deemed approved as of the date hereof.

“Cost Certification” means the certified audit prepared by the Accountants, reasonably approved by the Limited Partner and submitted to the State Housing Finance Agency, itemizing the Partnership's development and related costs for purposes of establishing the amount of Tax Credits available to the Project.



“Cost Savings” means (i) a permanent reduction in Development Costs from that set forth in the Financial Forecasts without an offsetting reduction in Capital Contributions or proceeds of Project Loans or (ii) a permanent increase in development sources from those set forth in the Financial Forecasts without an offsetting increase in Development Costs. The determination of Cost Savings is subject to the Consent of the Special Limited Partner and shall be released concurrently with the funding of the Third Installment. If any Cost Savings are realized they shall be applied in the following order: (i) a reduction in the deferred Developer Fee, (ii) a reduction in the First Mortgage Loan amount, (iii) to capital improvements reasonably acceptable to the Special Limited Partner, and (iv) the balance, if any, shall be distributed in accordance with *Section 4.1*.

“Cost Segregation Study” means the cost segregation study for the 5- and 15- year property associated with the acquisition and rehabilitation of the Project, which has been approved by the Accountants and the Limited Partner.

“Credit Deficiency” means the Projected Tax Credits (reduced by any reduction in Capital Contributions and any amounts paid to the Limited Partner pursuant to *Section 5.10*) less the aggregate amount of Tax Credits received by the Limited Partner which shall be computed no sooner than at the end of the Compliance Period. For this purpose, the Limited Partner shall be considered to have received Tax Credits in the amount allocated to the Limited Partner on the Partnership’s federal income tax returns reduced by (a) any adjustment of the Partnership’s tax return that is made or claimed by the IRS, except to the extent that such adjustment or claimed adjustment is rejected or overturned by the IRS or a court and the order of such court is beyond the time for appeal; and (b) the amount of any recapture or claimed recapture of such Credits (other than recapture caused by the action of the Limited Partner and not including recapture which is rejected by the IRS or a court). The Credit Deficiency shall be calculated on an After-Tax Basis.

“Credit Period” means, with respect to any building the period described in Code Sections 42(f)(1) and (2), which generally is the period of ten (10) taxable years beginning with (a) the taxable year in which the building is Placed in Service or (b) at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building (as defined in the Code) as of the close of the first year of such period. Special rules apply to the determination of the Credit Period for multiple building Projects and the Credit Period may include the eleventh (11th) year of such period as provided in Code Section 42(f)(2).

“Credit Reduction Payment” has the meaning attributed thereto in *Section 5.10(c)* of this Partnership Agreement.

“Credit Shortfall” has the meaning attributed thereto in *Section 5.10(c)*.

“Debt Coverage Ratio” means the ratio of (i) Cash Receipts (excluding releases of reserves) less Operating Expenses (but for purposes of this definition, Operating Expenses shall not include any payment of principal and interest on any Partnership indebtedness) to (ii) principal and interest payments due and payable with respect to the First Mortgage Loan, but excluding loans to the Partnership from the General Partner or the Developer.

“Debt Coverage Ratio Requirement” means a Debt Coverage Ratio of at least 1.15:1.00 at Stabilized Operations and 1.10:1.00 throughout the Compliance Period.

“Developer” means Vitus Development IV, LLC, a Delaware limited liability company.

“Developer Fee” means in the aggregate \$1,720,410 but not to exceed the maximum amount allowed by the State Housing Finance Agency (plus certain cost savings realized by the Partnership, as described in the Development Agreement) payable at the times and upon the conditions set forth in the Development Agreement.

“Development Agreement” means the Development Agreement to be entered into by the Partnership and the Developer pursuant to which the Developer shall assume primary responsibility for overseeing the development of the Project Property and bearing certain cost overruns.

“Development Costs” has the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Development Deficit Loans” have the meaning attributed thereto in *Section 5.4(g)* of the Partnership Agreement.

“Disposition Fee” means the amount equal to 6% of the Project’s sale price less any brokerage fees paid to any other Person.

“Economic Risk of Loss” has the meaning specified in Treas. Reg. Section 1.752-2.

“Election Notice” has the meaning set forth in *Section 5.10(e)*.

“Eligible Basis” means, generally, the adjusted basis of a building for depreciation purposes determined as of the close of the first taxable year of the Credit Period, subject to certain exclusions as set forth in the Code.

“Environmental Clearance Letter” means the letter issued by Nova Group, GBC, April 1, 2021 with respect to the Project, attached hereto as **Appendix XI**.

“Environmental Laws” means all federal, state and local worker safety, environmental, land use, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environmental or human health and safety, or governing the use storage, treatment, generation, transportation, processing, handling, production, remediation, abatement, purchase, sale or disposal of Hazardous Substance and the written rules, regulations, policies, guidelines, interpretations, decisions, orders and directive of federal, state and local government agencies and authorities relating to the environment or worker safety, which include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.) (“CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et. seq.) (“RCRA”), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et. seq.) (“TSCA”), the Hazardous Materials Transportation Act, as amended, (39 U.S.C. Section 1801 et. seq.), the Occupational Health and Safety Act (29 U.S.C. Section 651 et. seq.), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.) or any other applicable laws and regulations adopted and promulgated thereunder that protect the environment or human health and safety.

“Exit Taxes” means an amount equal to the amount of any federal, state or local income tax liability which would be imposed upon the Limited Partner as a result of the deficit balance in the Limited Partner’s Capital Account, assuming that the Limited Partner is subject to the highest marginal federal, state and local income tax rates.

“Fair Market Value” means the fair market value as determined by a M.A.I. appraiser selected by the General Partner with the approval of the Special Limited Partner. The costs of determining the Fair Market Value shall be paid for by the Partnership.

Notwithstanding the foregoing, for purposes of determining the Fair Market Value the following shall apply:

- (i) The General Partner shall select a third-party M.A.I. appraiser with at least five (5) years of relevant experience and licensed to do business in the state where the Project Property is located and approved by the Special Limited Partner.
- (ii) The appraiser may, in its professional judgment, consider the existence of income and rent restrictions on the Project, and any other encumbrances or restrictive use agreements affecting the Project, any deferred maintenance, the useful remaining life of all improvements, and any capital improvements required by a third party needs assessment of the Project, and any such other factors that the appraiser may deem relevant.
- (iii) When determining the fair market value of the Limited Partner’s Partnership Interest, the appraiser may, in its professional judgment, also consider the lack of control by the Limited Partner under the Partnership Agreement, the lack of marketability of the Limited Partner’s Partnership Interest, and the value of any outstanding Project Loans owed to the Limited Partner or Credit adjusters under Section 5.10 of the Partnership Agreement.

“Final Determination” means the earliest to occur of (i) the date on which a decision, judgment, decree or other order has been issued by any court of competent jurisdiction, which decision, judgment, decree or other order has become final (i.e., all allowable appeals requested by the parties to the action have been exhausted), (ii) the date on which the IRS has entered into a binding agreement with the Partnership with respect to such issue or on which the IRS has reached a final administrative determination with respect to such issue which, whether by law or agreement, is not subject to appeal, (iii) the date on which the time for instituting a claim for refund has expired, or if a claim was filed the time for instituting suit with respect thereto has expired, or (iv) the date on which the applicable statute of limitations for raising an issue regarding a federal income tax matter with respect to the Partnership has expired.

“Final Endorsement” means the date upon which the promissory note evidencing the First Mortgage Loan is finally endorsed for mortgage insurance purposes by or on behalf of HUD.

“Final Partnership Adjustment” means a notice from the IRS of a final partnership adjustment under Section 6231 of the Code.

“Financial Forecasts” means the Financial Forecasts attached hereto as **Appendix II**.

“First Installment” has the meaning set forth in **Appendix VIII** hereof.

“First Mortgage Lender” means Colliers Mortgage LLC, a Delaware limited liability company, with insurance from HUD under Section 221(d)(4) of the National Housing Act, as amended.

“First Mortgage Loan” means those loan(s) described as such in Appendix IV, with terms no less favorable than those set forth in Appendix IV and loan documents acceptable to the Special Limited Partner. Unless otherwise agreed to by the Special Limited Partner, in connection with Final Endorsement, the Project shall satisfy the Debt Coverage Ratio Requirement over a consecutive 90-day period using: (i) the annualized aggregate substantiated Cash Receipts of the Project at the time (excluding tenant based rental subsidies in excess of current asking rents and adjusted for the vacancy rate assumed in the Financial Forecasts if such rate is greater than the actual vacancy rate) and (ii) annualized aggregate Operating Expenses (excluding any payment of principal and interest on any Partnership indebtedness) which shall reflect the Specified Expense Line Items and, for all other Operating Expenses, the greater of the Special Limited Partner’s projected expenses included in the Financial Forecasts and the actual substantiated expenses of the Project at the time. Pursuant to the Financial Forecasts attached hereto, the maximum principal amount of the First Mortgage Loan is \$10,500,000. The First Mortgage Loan will be insured by HUD under Section 221(d)(4) of the National Housing Act, as amended.

“First Mortgage Loan Documents” means HUD Firm Commitment and all other loan documents evidencing the First Mortgage Loan.

“Fiscal Year” means the 12-month period which begins on the first day of January and ends on the 31<sup>st</sup> day of December of each calendar year (or ends on the date of final dissolution for the year in which the Partnership is wound up or dissolved).

“Fourth Installment” has the meaning set forth in **Appendix VIII** hereof.

“Fund” means an assignee of the Limited Partner’s Partnership Interest where the general partner or managing member of the assignee is an Affiliate of the Limited Partner or Special Limited Partner, which Fund shall not include as a member or manager any Person listed in the last sentence of *Section 5.3(d)*, or an affiliate thereof, if the Limited Partner or the Special Limited Partner, as applicable, has actual knowledge that the transferee is an affiliate of a Person listed in the last sentence of *Section 5.3(d)*.

“General Contractor” means Charter Construction, Inc., a Washington corporation, or such other general contractor as Consented to by the Special Limited Partner.

“General Partner” means collectively Shakopee Housing Management, LLC, a Minnesota limited liability company, or any other Person who becomes a successor General Partner pursuant to *Section 9.1* or *Section 9.3*.

“Guarantor” means, collectively and jointly and severally, Vitus Group, LLC, a Delaware limited liability company, and the Developer.

“Guaranty Agreement” means the Guaranty Agreement to be entered into between the Partnership and the Guarantor for the benefit of the Limited Partner.

“HAP Contract” means the Project-based Section 8 Housing Assistance Payments Renewal Contract entered into between Minnesota Housing Finance Agency and the Partnership pursuant to which rental subsidies under Section 8 of the United States Housing Act of 1937 will be provided to all of the LIHTC Units at the Project. The term of the HAP Contract will commence July 1, 2021 and will run for a period of 20 years.

“Hazardous Substance” means, without limitation, any combustible substances, ignitable substances, flammable substances, corrosive substances, reactive substances, explosives, radon, radioactive materials, asbestos, lead-based paint, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum-based products, methane, and hazardous materials, hazardous chemicals, hazardous wastes, hazardous or toxic substances or related materials, including those as so defined in or regulated by Environmental Laws.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Firm Commitment” means that certain commitment letter from HUD whereby HUD agrees to provide mortgage insurance under Section 221(d)(4) of the National Housing Act with respect to the First Mortgage Loan, as amended.

“HUD Regulatory Agreement” has the meaning set forth in *Section 11.15* hereof.

“HUD Use Agreement” means the Use Agreement by and between the Seller and HUD dated November 3, 2020 and recorded November 11, 2020, which covenants therein run with the Land until June 13, 2023.

“HUD Working Capital Reserve” means the reserve in the amount of \$210,000 as more particularly described in *Section 5.4(h)(3)* hereof.

“Imputed Underpayment” shall have the meaning assigned to such term in Section 6225 of the Code.

“In Balance” means, during the construction period, and in the Limited Partner’s reasonable discretion, the then undisbursed portion of the Capital Contributions to be disbursed in accordance with this Agreement during the construction period, plus the undisbursed proceeds of construction period financing, plus Cash Flow available to pay Development Costs as set forth in the Financial Forecasts, any payment made by the General Partner pursuant to *Section 5.4(g)*, or other construction period financing, equals or exceeds the amount necessary to pay all work done and not theretofore paid for or to be done in connection with the completion of the rehabilitation of the Project in accordance with the Plans and Specifications or otherwise to be incurred in connection with completion of the Project. After Construction Completion, “In Balance” means, in the Limited Partner’s reasonable discretion, the then undisbursed portion of the permanent sources contained in the Financial Forecasts equals or exceeds the remaining costs of the Project, including repayment of any construction loans.

“Incentive Leasing Fee” means the non-cumulative fee payable by the Partnership to the General Partner in accordance with the terms and conditions set forth in *Section 5.5(c)*.

“Incentive Leasing Agreement” means the Incentive Leasing Agreement of even date herewith between the Partnership and the General Partner pursuant to which the General Partner is to provide certain supplemental services with respect to the Project.

“Incentive Management Agreement” means the Incentive Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Incentive Management Fee.

“Incentive Management Fee” means the payment made by the Partnership to the General Partner in accordance with the Incentive Management Agreement and in the priority specified in *Section 4.1(a)* hereof.

“Involuntary Event” means, with respect to any Partner any one of the following events: (a) the making of an assignment for the benefit of creditors by the Partner; (b) the filing of a voluntary petition in bankruptcy by the Partner; (c) the adjudication of the Partner as a bankrupt or insolvent; (d) the filing of a petition or answer by the Partner seeking for himself a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule; (e) the seeking, consenting to or acquiescence of the Partner in the appointment of a trustee, receiver, or liquidator of the Partner or of all or any substantial part of the Partner’s properties; (f) the death of any Partner who is a natural person; or (g) the termination of the legal existence of any Partner who is other than a natural person.

“Involuntary Transfer” means any transfer of any Partner’s Partnership Interests effected by operation of law as a result of the occurrence of an Involuntary Event.

“IRS” means the Internal Revenue Service.

“Land” means the tract of land currently owned by the Partnership upon which the Project Property is located, as more particularly described on **Appendix V** attached hereto.

“LIHPRHA Use Agreement” means, collectively, the Use Agreement and Amendment of Existing Regulatory Agreement for Multifamily Projects Insured Or Assisted Under Section 221(d)(3) (Mark Rate) of the National Housing Act and Subject to the Low Income Housing Preservation and Resident Home Ownership Act of 1990 between HUD and Shakopee 62 Partnership, a Minnesota general partnership (“Shakopee 62”) dated February 28, 1995 and recorded March 3, 1995; the Assignment and Assumption of Use Agreement and Amendment of Regulatory Agreement for Limited Dividend Mortgagors for Multifamily Projects Insured or Assisted Under Section 221(d)(3) (Mark Rate) of the National Housing Act and Subject to the Low Income Housing Preservation and Resident Homeownership Act of 1990 among HUD, Shakopee 62, as assignor, and the Seller, as assignee, dated June 1, 2018 and recorded June 8, 2018; the First Amendment to Use Agreement and Amendment of Regulatory Agreement for Limited Dividend Mortgagors for Multifamily Projects Insured or Assisted Under Section 221(d)(3) (Mark Rate) of the National Housing Act and Subject to the Low Income Housing Preservation and Resident Homeownership Act of 1990 between HUD and the Seller dated June 1, 2018 and recorded June 8, 2018; and the Assignment and Assumption of LIHRPHA Use

Agreement among HUD, the Seller and the Partnership dated November 3, 2020 and recorded November 11, 2020.

“LIHTC Units” means the 62 low income housing units located in the Project.

“Limited Partner” means CREA Shakopee Village Apartments, LLC, a Delaware limited liability company, or any other Person who becomes a Substituted Limited Partner for any such Person pursuant to *Section 8.1* or *Section 8.2*. The term Limited Partner shall not refer to the Special Limited Partner.

“Liquidation Manager” means any Person selected by the Limited Partner.

“Management Agent” means Evergreen Real Estate Services, LLC, an Arizona limited liability company, or such other management agent that is selected by the General Partner with the Consent of the Special Limited Partner. The Management Agent shall act as property manager for the Project pursuant to a management agreement approved in writing by the Asset Manager.

“Management Agreement” means the management contract or agreement by and between the Partnership and the Management Agent, which has received all Requisite Approvals.

“Management Fee” means the fee payable to the Management Agent, which fee shall not exceed 4.00% of gross collections or such lesser amount required by the State Housing Finance Agency or HUD and no other fees for leasing, accounting or other services shall be paid to the Management Agent without the Consent of the Special Limited Partner. The General Partner shall cause any management agreement between the Partnership and a Management Agent that is Affiliated with the General Partner, Developer, or Guarantor to contain a provision that allows for the deferral of the Management Fee to the payment of any Operating Deficits (the “Deferred Management Fee”). Any portion of the Deferred Management Fee shall accrue without interest and shall be repaid in accordance with *Section 4.1* and *4.2* herein.

“Net Cash from Sales and Refinancings” means, with respect to any Fiscal Year of the Partnership, the cash proceeds from Partnership sales or refinancings reduced by (a) all reasonable costs and expenses incurred by the Partnership in connection with such sale or refinancing, including prepayment fees, and (b) all principal and interest payments and other sums paid on or with respect to any indebtedness of the Partnership other than the deferred Developer Fee and amounts treated as loans pursuant to this Partnership Agreement from the General Partner, Developer or Guarantor or any of their respective Affiliates or the Limited Partner. Net Cash from Sales and Refinancing shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with the sale or other disposition of Project Property.

“Nonrecourse Deduction” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations. The amount of Nonrecourse Deductions for any Fiscal Year of the Partnership equals the excess, if any, of the net increase, if any, in the amount of Partnership Minimum Gain during that Fiscal Year reduced (but not below zero) by the aggregate amount of any distributions during that Fiscal Year of proceeds of a Nonrecourse Liability that are allocable to an increase in Partnership Minimum Gain, determined in accordance with Section 1.704-2(c) of the Regulations.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“Operating Deficit” means the amount by which Cash Receipts (other than proceeds of any loans to the Partnership and investment earnings on funds on deposit in the reserve fund for replacements and other such reserve or escrow funds or accounts) for a particular period of time (which shall be measured on a monthly basis and funded as necessary during the Operating Deficit Guaranty Period) is exceeded by the sum of all Operating Expenses, including, required deposits into the reserve fund for replacements and reserve accounts, any fees to lenders and/or any applicable mortgage insurance premium payments and all other Partnership obligations or expenditures, excluding payments for construction of the Project, payment of the Asset Management Fee and all other fees payable out of Cash Flow, and fees and other expenses and obligations of the Partnership to be paid from the Capital Contributions of the Limited Partner to the Partnership pursuant to this Partnership Agreement, during the same period of time.

“Operating Deficit Guaranty Period” means the period beginning on Stabilized Operations and ending on the fifth (5<sup>th</sup>) anniversary of the date of Stabilized Operations; *provided, however*, the expiration of the Operating Deficit Guaranty Period shall be conditioned upon (i) funding of the Operating Reserve to the Operating Reserve Amount less any reduction pursuant to *Section 5.4(h)(1)*, (ii) achievement of at least a 1.15 to 1.00 Debt Coverage Ratio for the preceding twelve (12) month period (measured in the aggregate) and projection of the achievement of a 1.10 to 1.00 Debt Coverage Ratio for the balance of the Compliance Period and (iii) the HAP Contract remains in effect.

“Operating Deficit Loans” has the meaning set forth in *Section 5.4(i)* hereof.

“Operating Expenses” means all costs and expenses of any type, properly accruable during a specified Fiscal Year which may be properly charged as operating expenses incidental to the ownership and operating of the Project under standard accounting procedures, including, without limitation, payment of principal and interest on any Partnership indebtedness (other than payments of principal and interest on any loan made pursuant to *Sections 2.6, 5.4(i)* and *5.4(l)* or any Project Loans made to the Partnership the debt service on which is payable solely from Cash Flow or any unpaid Developer Fee), including replacement reserves, the cost of repairs to the Project, amounts allocated to reserves by the General Partner and the payment of any fees other than the Asset Management Fee, the Incentive Management Fee and the Developer Fee. The term Operating Expenses shall not include Development Costs. Operating Expenses payable to Partners or Affiliates of Partners shall be paid after Operating Expenses payable to third parties.

“Operating Reserve” means the reserve amount of \$440,000 to be funded out of the proceeds of the Fourth Installment and other available Project funds at the time of the funding of the Fourth Installment, and thereafter, out of Cash Flow pursuant to *Section 4.1(a)* hereof, plus interest earned thereon, which reserve shall be held for working capital and operating purposes and contingencies, excluding project repairs and replacements which are to be covered by the Replacement Reserve.

“Operating Reserve Account” means the segregated Partnership bank account, established to hold the Operating Reserve, to be established at a financial institution selected at the sole



discretion of the Limited Partner; withdrawals from such Operating Reserve Account shall require the signature of the Special Limited Partner.

“Operating Reserve Amount” means \$440,000.

“Opt-Out Election” means action by the Partnership Representative that causes the Partnership to elect out of the Revised Partnership Audit Rules, if such election is available to the Partnership under Section 6221(b) of the Code and Regulations or other guidance issued by the IRS.

“Partner” or “Partners” means, individually or collectively as the context requires, the General Partner, the Limited Partner and/or the Special Limited Partner.

“Partner Minimum Gain” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i) of the Regulations.

“Partner Nonrecourse Debt” has the meaning set forth in Section 1.704-2(b)(4) of the Regulations.

“Partner Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(i)(2) of the Regulations. The amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Fiscal Year equals the net increase during that Fiscal Year in Partner Nonrecourse Debt reduced (but not below zero) by the proceeds of the Partner Nonrecourse Debt distributed during that Fiscal Year to the Partner bearing the Economic Risk of Loss for the Partner Nonrecourse Debt that are both attributable to the Partner Nonrecourse Debt and allocable to an increase in Partner Minimum Gain, as determined in accordance with Section 1.704-2(i)(2) of the Regulations.

“Partnership” means Shakopee Housing Partners, LP, a Minnesota limited partnership.

“Partnership Agreement” or “Agreement” means the Partnership’s Amended and Restated Agreement of Limited Partnership, as the same may be amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto” and “hereunder” refer to this Partnership Agreement as a whole, unless the context otherwise requires.

“Partnership Interest” means the entire ownership interest of a Partner, including, without limitation, the rights and obligations of such Partner under this Partnership Agreement and the Act.

“Partnership Management Agreement” means the Partnership Management Agreement to be entered into by and between the Partnership and the General Partner pursuant to which the Partnership shall pay the General Partner the Partnership Management Fee.

“Partnership Management Fee” means the fee payable to the General Partner equal to an annual amount of \$6,200, increasing at 3.0% per annum, payable in accordance with the Partnership Management Agreement and *Section 4.1(a)* and *Section 4.2*.

“Partnership Minimum Gain” has the meaning set forth in Section 1.704-2(d) of the Regulations.

“Partnership Property” means all real and personal property acquired by the Partnership and any improvements thereto, and shall include both tangible and intangible property.

“Partnership Representative” has the meaning ascribed in *Section 5.4(d)*.

“Payment Certificate” means a Payment Certificate executed by the General Partner pursuant to which the Capital Contributions will be disbursed.

“Permanent Credit Shortfall” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Credit Shortfall Adjustment” has the meaning set forth in *Section 5.10(a)* hereto.

“Permanent Loan Shortfall” and “Permanent Loan Shortfall Note” have the meanings set forth in *Section 5.4(l)* hereof.

“Person” means any individual, partnership, corporation, trust or other entity.

“Placed in Service” means, with respect to each building in the Project, (i) when a building in the Project is first placed in a condition or state of readiness and is available for occupancy as evidenced by a certificate of occupancy for at least one unit in each building in the Project or (ii) such date elected by or on behalf of the Partnership, which date may not be earlier than the last day of the month during which the minimum rehabilitation expenditure amount set forth in Code Section 42(e)(3)(A) has been incurred by the Partnership with respect to such building; *provided, however,* that if such certificate or permit is of a temporary nature, the “Placed in Service” shall not be deemed to have occurred unless (x) tenants are permitted to occupy the unit(s) to which such temporary certificate or permit applies, or (y) if applicable, the work remaining to be done is of a nature which would not impair the permanent occupancy of such unit. Notwithstanding the foregoing, a building shall not be deemed to have been Placed in Service if the Project is not placed in service as provided by the Code and IRS guidance.

“Plans and Specifications” mean the plans and specifications for the Project approved by the Special Limited Partner.

“Prime Rate” means the interest rate announced from time to time by the Wall Street Journal, expressed as a per cent per annum. The “Prime Rate” shall be determined on a daily basis.

“Profits” and “Losses” mean, for each Fiscal Year of the Partnership, an amount equal to the Partnership’s taxable income or loss for such period from all sources, determined in accordance with Section 703(a) of the Code, adjusted in the following manner: (a) the income of the Partnership that is exempt from federal income tax shall be added to such taxable income or loss; (b) any expenditures of the Partnership which are not deductible in computing its taxable income and not properly chargeable to capital account under either Section 705(a)(2)(B) of the Code or the Regulations promulgated under Section 704(b) of the Code shall be subtracted from such taxable income or loss; (c) in the event any Project Property is revalued in accordance with Section

1.704-1(b)(2)(iv)(f) of the Regulations, then the amount of any adjustment to the value of such Property shall be taken into account as gain or loss from the disposition of such Project Property for purposes of computing Profits or Losses; (d) gain or loss resulting from any disposition of Project Property which has been revalued pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations and with respect to which gain or loss is recognized for Federal income tax purposes shall be computed by reference to the adjusted value of such Project Property, notwithstanding that the adjusted tax basis of such Project Property differs from the adjusted value; and (e) any depreciation, amortization or other cost recovery deductions taken into account in computing such taxable income or loss shall be recomputed based upon the adjusted value of any Project Property which has been revalued in accordance with Section 1.704-1(b)(2)(iv)(f) of the Regulations.

“Project Documents” means and includes this Partnership Agreement (and all exhibits hereto), the Construction Contract, the Plans and Specifications, Restrictive Covenant, Management Agreement, the HAP Contract, the HUD Firm Commitment and all instruments delivered to (or required by) the Limited Partner, Project Lenders or the State Housing Finance Agency to the extent not otherwise listed in this definition.

“Project Lender” means the lenders of the Project Loans as set forth in Appendix IV.

“Project Loans” means those loans set forth and described on Appendix IV hereto the terms of which shall not be modified or amended without the Consent of the Special Limited Partner.

“Projected Tax Credits” means the 30% present value tax credits from the State Housing Finance Agency in an amount equal to \$397,635 for year 2022, which shall not be delivered prior to August 1, 2021, or such later date as directed by the Special Limited Partner, \$401,958 for years 2023 through 2031 and \$4,322 for year 2032 (the foregoing amounts represent 99.989% of the total Tax Credits projected for the Partnership). The Projected Tax Credits shall be deemed amended and revised to reflect the Projected Tax Credits calculated in any revised Financial Forecast prepared pursuant to *Section 5.10(a)* and *Section 5.10(b)* of this Partnership Agreement.

“Project Property” or “Project” means the Land currently owned by the Partnership in Shakopee, Minnesota, and the 62-unit multifamily rental housing development for seniors (ages 62 years and older) or disabled persons and other improvements to be rehabilitated, owned and operated thereon by the Partnership, and known as Shakopee Village Apartments.

“Push-Out Election” means an election by the Partnership Representative under Section 6226 of the Code with respect to any Imputed Underpayment(s) identified in a Final Partnership Adjustment for the Partnership.

“Qualified Basis” has the meaning set forth in Section 42(c) of the Code.

“Qualified Occupancy” means initial occupancy of 100% of the LIHTC Units (or 95% of the LIHTC Units provided all applicable Permanent Credit Shortfall Adjustments or Credit Reduction Payments are made) by tenants whose occupancy and leases (including specified rents) qualify such residential units for the Tax Credit. The achievement of Qualified Occupancy shall be confirmed by the Management Agent and certified by the General Partner.

“Qualified Occupancy Date” means January 1, 2022.

“REAC” shall refer to the Real Estate Assessment Center of HUD.

“Regulations” means the Federal Income Tax Regulations (including without limitation, Temporary Regulations) promulgated under the Code, as the same may be amended from time to time (including corresponding provisions of successor regulations).

“Replacement Reserve” means the greater of (i) the amount required by the Project Lenders to be reserved by the Partnership, and (ii) \$450 per unit per year, increasing by 2% per year, plus all interest earned on any such amount, funded ratably on a monthly basis, with credit given for any amount funded into any lender controlled replacement reserve, commencing upon the achievement of Stabilized Operations. On the sixth and eleventh anniversary of the completion of construction of the Project, the Special Limited Partner shall have the right to require a physical assessment of the Project Property pursuant to which the amount reserved on a monthly basis may be increased. In addition, prior to the date hereof, the Partnership has made an initial deposit into the Replacement Reserve Account in the amount of \$211,468.

“Replacement Reserve Account” means a segregated Partnership bank account established at a bank selected by the Limited Partner to hold the Replacement Reserve, unless required to be held by the First Mortgage Lender.

“Requisite Approvals” means any required approvals of each Lender and Agency to an action proposed to be taken by the Partnership.

“Restrictive Covenant” means the extended low-income housing commitment entered into between the Partnership and the State Housing Finance Agency pursuant to Section 42(h)(6) of the Code.

“Revised Partnership Audit Procedures” means the revised partnership audit rules contained in Subchapter 63C of the Code, as amended by the Bipartisan Budget Act of 2015, P.L. 114-74 and the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, and the Regulations promulgated thereunder.

“Second Installment” has the meaning set forth in **Appendix VIII** hereof.

“Security Agreement” means that certain Security Agreement to be entered into by and among the General Partner, the Partnership and the Limited Partner.

“Seller” means Shakopee Fighting Scots LLC, a Maine limited liability company.

“Special Limited Partner” means CREA SLP, LLC, an Indiana limited liability company.

“Specified Expense Line Items” means the actual and substantiated expenses of the Project for property taxes, insurance and utilities. For purposes of real estate taxes, the amount shall be based on the full assessment of the Project following Construction Completion, less any applicable tax abatement.

“Stabilized Operations” means the date upon the latest to occur of (i) Qualified Occupancy by tenants actually paying rents at monthly rates at least equal to 90% of those assumed in the Financial Forecasts for a period of three consecutive months, with the aggregate amount of rents at least equal to 90% of the aggregate rents assumed in the Financial Forecast, (ii) achievement of the Debt Coverage Ratio Requirement for three consecutive months assuming aggregated annualized expenses, and (iii) all conditions in the First Mortgage Loan definition have been satisfied, and (iv) repayment in full of the Bridge Loan.

“Stabilized Operations Date” shall mean July 1, 2022.

“State Designation” means, with respect to the Project Property, collectively, the written determinations received from the State Housing Finance Agency and the Bond Issuer under Sections 42(m)(1)(D) and (m)(2)(D) of the Code in the annual amount of \$402,150 of Tax Credits for the Project Property’s ten-year Credit Period.

“State Housing Finance Agency” means the agency controlling the designation of Low Income Housing Tax Credits and administering the Tax Credits, acting through any authorized representative.

“Substituted Limited Partner” means a Person who is admitted as Limited Partner to the Partnership pursuant to *Section 8.1* or *Section 8.2* in place of and with all the rights of a limited partner under the Partnership Agreement and the Act.

“Tax Credit” or “Credit” means the low income housing tax credit under Section 42 of the Code allocated pursuant to the State Designation.

“Third Installment” has the meaning set forth in **Appendix VIII**.

“Timing Reduction” means the return of Capital Contributions of the Limited Partner designed to compensate the Limited Partner for the reduced present value of delayed Tax Credits.

“Title Company” means Chicago Title Insurance Company.

“Upward Adjuster Cap” means ten percent (10%) of the Limited Partner’s total Capital Contributions before taking into account the adjustments pursuant to *Section 5.10(a)(2)*, unless otherwise agreed to by the Special Limited Partner.

“Upward Timing Adjuster Cap” means \$69,325, unless otherwise agreed to by the Special Limited Partner.

“Voluntary Transfer” means any sale, assignment, transfer, pledge, or hypothecation of any Partnership Interests by a Partner, except for an Involuntary Transfer.

“Withdrawing Limited Partner” means Stephen R. Whyte, an individual.

**APPENDIX II**

**Financial Forecasts**

*[attached behind]*



**SOURCE AND USE OF FUNDS**  
Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

**SOURCES OF FUNDS**

	<b>TOTAL</b>	<b>PER UNIT</b>	
		<b>\$</b>	<b>%</b>
<b>EQUITY</b>			
Federal Low Income Tax Credits @ 89.00%	3,577,423	57,700	24.7%
Special Limited Partner Contribution	100	2	0.0%
Managing Partner Contribution	100	2	0.0%
<b>EQUITY</b>	<b>3,577,623</b>	<b>57,704</b>	<b>24.7%</b>
<b>HARD PERMANENT FINANCING</b>			
HUD 221(d)(4) @ 2.90% including 0.25% MIP	6,825,000	110,081	47.2%
HUD 221(d)(4) @ 2.90% including 0.25% MIP	3,675,000	59,274	25.4%
<b>HARD PERMANENT FINANCING</b>	<b>10,500,000</b>	<b>169,355</b>	<b>72.6%</b>
<b>CASH FLOW FROM OPERATIONS - 50.0%</b>	81,640	1,317	0.6%
<b>DEFERRED DEVELOPMENT FEES - 17.2%</b>	296,396	4,781	2.1%
<b>TOTAL SOURCES OF FUNDS</b>	<b>14,455,660</b>	<b>233,156</b>	<b>100.0%</b>

**USES OF FUNDS**

		<b>INELIGIBLE COSTS</b>	<b>NEW/REHAB</b>	<b>ELIGIBLE BASIS ACQUISITION</b>	<b>HISTORIC</b>	<b>STATE</b>	<b>TOTAL</b>	<b>PER UNIT</b>	
								<b>\$</b>	<b>%</b>
<b>LAND</b>									
Land Acquisition	Other	970,000	-	-	-	-	970,000	15,645	6.7%
Insurance & Tax at Closing	Other	11,859	-	-	-	-	11,859	191	0.1%
<b>LAND</b>		<b>981,859</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>981,859</b>	<b>15,836</b>	<b>6.8%</b>
<b>ACQUISITION</b>									
Improvements	Depreciated	-	-	6,130,000	-	-	6,130,000	98,871	42.4%
Title & Closing	Depreciated	-	-	95,000	-	-	95,000	1,532	0.7%
Survey	Depreciated	-	-	15,050	-	-	15,050	243	0.1%
Legal	Depreciated	-	-	22,500	-	-	22,500	363	0.2%
<b>ACQUISITION COSTS</b>		<b>-</b>	<b>-</b>	<b>6,262,550</b>	<b>-</b>	<b>-</b>	<b>6,262,550</b>	<b>101,009</b>	<b>43.3%</b>
<b>REHABILITATION</b>									
Hard Costs	Depreciated	-	2,321,675	-	-	-	2,321,675	37,446	16.1%
Permits and Fees	Depreciated	-	36,830	-	-	-	36,830	594	0.3%
Relocation	Depreciated	-	205,440	-	-	-	205,440	3,314	1.4%
FF&E	Depreciated	-	9,640	-	-	-	9,640	155	0.1%
<b>REHABILITATION</b>		<b>-</b>	<b>2,573,585</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2,573,585</b>	<b>41,509</b>	<b>17.8%</b>
<b>CONTRACTOR</b>									
Bonding	Depreciated	-	22,852	-	-	-	22,852	369	0.2%
General Conditions	Depreciated	-	139,300	-	-	-	139,300	2,247	1.0%
Overhead	Depreciated	-	49,219	-	-	-	49,219	794	0.3%
Profit	Depreciated	-	139,300	-	-	-	139,300	2,247	1.0%
<b>CONTRACTOR</b>		<b>-</b>	<b>350,671</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>350,671</b>	<b>5,656</b>	<b>2.4%</b>
<b>ARCHITECT &amp; ENGINEERING</b>									
Architectural Fees	Depreciated	-	100,000	-	-	-	100,000	1,613	0.7%
Design	Depreciated	-	15,000	-	-	-	15,000	242	0.1%
<b>ARCHITECT &amp; ENGINEERING</b>		<b>-</b>	<b>115,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>115,000</b>	<b>1,855</b>	<b>0.8%</b>
<b>LEGAL AND ACCOUNTING</b>									
Accounting	Depreciated	-	35,000	-	-	-	35,000	565	0.2%
<b>LEGAL AND ACCOUNTING</b>		<b>-</b>	<b>35,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>35,000</b>	<b>565</b>	<b>0.2%</b>
<b>THIRD PARTY COSTS</b>									
Construction Inspection	Depreciated	-	15,000	-	-	-	15,000	242	0.1%
Environmental	Depreciated	-	55,000	-	-	-	55,000	887	0.4%
Market Study	Depreciated	-	17,750	-	-	-	17,750	286	0.1%
Physical Needs Assessment	Depreciated	-	5,200	-	-	-	5,200	84	0.0%
<b>THIRD PARTY</b>		<b>-</b>	<b>92,950</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>92,950</b>	<b>1,499</b>	<b>0.6%</b>
<b>TAX CREDITS</b>									
Application Fee	Amortized	16,732	-	-	-	-	16,732	270	0.1%
Prepaid Partnership Management Fee	Expensed	6,200	-	-	-	-	6,200	100	0.0%
Prepaid CREA Asset Management Fee	Expensed	6,200	-	-	-	-	6,200	100	0.0%
CREA Reimbursement	Other	50,000	-	-	-	-	50,000	806	0.3%
<b>TAX CREDITS</b>		<b>79,132</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>79,132</b>	<b>1,276</b>	<b>0.5%</b>
<b>INTERIM LOAN COSTS</b>									
Legal	Depreciated	-	135,000	-	-	-	135,000	2,177	0.9%
MIP	Depreciated	-	13,125	-	-	-	13,125	212	0.1%
<b>INTERIM LOAN COSTS</b>		<b>-</b>	<b>148,125</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>148,125</b>	<b>2,389</b>	<b>1.0%</b>
<b>INTERIM INTEREST (Developer)</b>									
Eligible	Depreciated	-	17,470	-	-	-	17,470	282	0.1%
Ineligible	Expensed	49,900	-	-	-	-	49,900	805	0.3%
<b>INTERIM INTEREST (Developer)</b>		<b>49,900</b>	<b>17,470</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>67,370</b>	<b>1,087</b>	<b>0.5%</b>
<b>PERMANENT LOAN COSTS</b>									
Origination Fees	Amortized	151,250	-	-	-	-	151,250	2,440	1.0%
Underwriting Fees	Amortized	23,300	-	-	-	-	23,300	376	0.2%
Legal	Amortized	72,000	-	-	-	-	72,000	1,161	0.5%
MIP	Amortized	13,125	-	-	-	-	13,125	212	0.1%
FHA Fees	Amortized	135,188	-	-	-	-	135,188	2,180	0.9%
Bridge Costs	Amortized	98,105	-	-	-	-	98,105	1,582	0.7%
Bond COI	Amortized	162,788	-	-	-	-	162,788	2,626	1.1%
Borrower Counsel	Amortized	67,500	-	-	-	-	67,500	1,089	0.5%
<b>PERMANENT LOAN COSTS</b>		<b>723,256</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>723,256</b>	<b>11,665</b>	<b>5.0%</b>
<b>RESERVES</b>									
Operating Deficit	Other	440,000	-	-	-	-	440,000	7,097	3.0%
Working Capital Reserve	Other	210,000	-	-	-	-	210,000	3,387	1.5%
Initial Replacement Reserve	Other	211,468	-	-	-	-	211,468	3,411	1.5%
<b>RESERVES</b>		<b>861,468</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>861,468</b>	<b>13,895</b>	<b>6.0%</b>
<b>CONTINGENCY</b>									
Eligible Hard Cost	Depreciated	-	267,235	-	-	-	267,235	4,310	1.8%
Eligible Soft Cost	Depreciated	-	43,000	-	-	-	43,000	694	0.3%
Ineligible Soft Cost (T&I)	Other	45,682	-	-	-	-	45,682	737	0.3%
Ineligible Soft Cost	Other	88,367	-	-	-	-	88,367	1,425	0.6%
<b>CONTINGENCY</b>		<b>134,049</b>	<b>310,235</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>444,284</b>	<b>7,166</b>	<b>3.1%</b>
<b>DEVELOPER COSTS</b>									
Eligible Acquisition Fee	Depreciated	-	-	983,388	-	-	983,388	15,861	6.8%
Eligible Developer Fee	Depreciated	-	737,022	-	-	-	737,022	11,887	5.1%
<b>DEVELOPER COSTS</b>		<b>-</b>	<b>737,022</b>	<b>983,388</b>	<b>-</b>	<b>-</b>	<b>1,720,410</b>	<b>27,749</b>	<b>11.9%</b>
<b>TOTAL USES OF FUNDS</b>		<b>2,829,664</b>	<b>4,380,058</b>	<b>7,245,938</b>	<b>-</b>	<b>-</b>	<b>14,455,660</b>	<b>233,156</b>	<b>100.0%</b>



**PRO FORMA NET OPERATING INCOME**

Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

Bedrooms	Bathrooms	Square Feet	Units	Median Income %	Rental Assistance Type	Rental Assistance Overhang	Gross Rent	Utility Allowance	Low Income Maximum	Low Income Asking	Low Income Advantage	Market Rent	Market Advantage	Rental Income Monthly	Rental Income Annual				
1	1.0	522	61	60%	Sec. 8	16,165	1,180		1,180	1,390	-15.1%	971	-43.2%	84,790	1,017,480				
1	1.0	372	1	60%	Sec. 8	346	1,180		1,180	1,390	-15.1%	971	-43.2%	1,390	16,680				
1.0	1.0	520	62	60%	100.0%	16,511	1,180	0	1,180	1,390	-15.1%	971	-43.2%	86,180	1,034,160				
													<b>Vacancy</b>	5.00%	(4,309)	(51,708)			
<b>NET RENTAL INCOME</b>													81,871	982,452					
<b>OTHER INCOME</b>													<b>Per Unit</b>		<b>Vacancy</b>	<b>Monthly</b>	<b>Annual</b>		
Laundry, Vending, Tenant Charges													Units	Monthly	Annual	Vacancy	Monthly	Annual	
													62	8.00	96	5.00%	(5)	471	5,654
<b>EFFECTIVE GROSS INCOME</b>													8.00	(5)	82,342	988,106			
<b>OPERATING EXPENSES</b>													<b>Per Unit</b>		<b>Total</b>				
													<b>Monthly</b>	<b>Annual</b>	<b>Monthly</b>	<b>Annual</b>			
Property Management Fee - EGI (4.00%)													53.14	638	3,295	39,536			
Property Taxes - Fixed													100.81	1,210	6,250	75,000			
Payroll - Variable													140.00	1,680	8,680	104,160			
Administrative and Leasing - Variable													60.42	725	3,746	44,950			
Repairs and Maintenance - Variable													82.84	994	5,136	61,631			
Grounds Maintenance - Variable													14.04	169	871	10,447			
Utilities - Fixed													61.83	742	3,834	46,004			
Insurance - Fixed													22.00	264	1,364	16,365			
<b>TOTAL OPERATING EXPENSES</b>													537.57	6,451	33,329	399,953			
Replacement Reserves													37.50	450	2,325	27,900			
<b>NET OPERATING INCOME</b>													49,013	560,254					
<b>HARD DEBT SERVICE</b>													37,689	452,270					
<b>NET CASH FLOW</b>													8,999	107,984					
<b>HARD DEBT SERVICE COVERAGE RATIO</b>																			
Pro Forma													1.24						
Stabilization													1.29						
End of Compliance													1.52						





**NET OPERATING INCOME**  
Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

Leased Period Year	100.0% 1 2021	100.0% 2 2022	100.0% 3 2023	100.0% 4 2024	100.0% 5 2025	100.0% 6 2026	100.0% 7 2027	100.0% 8 2028	100.0% 9 2029	100.0% 10 2030	100.0% 11 2031	100.0% 12 2032	100.0% 13 2033	100.0% 14 2034	100.0% 15 2035	100.0% 16 2036	100.0% 17 2037	100.0% 18 2038	100.0% 19 2039	100.0% 20 2040
<b>GROSS RENTAL INCOME</b>	723,168	737,631	1,075,940	1,097,459	1,119,408	1,141,796	1,164,632	1,187,925	1,211,683	1,235,917	1,260,635	1,285,848	1,311,565	1,337,796	1,364,552	1,391,843	1,419,680	1,448,074	1,477,035	1,506,576
Escalator																				
Less Vacancy	(36,158)	(36,882)	(53,797)	(54,873)	(55,970)	(57,090)	(58,232)	(59,396)	(60,584)	(61,796)	(63,032)	(64,292)	(65,578)	(66,890)	(68,228)	(69,592)	(70,984)	(72,404)	(73,852)	(75,329)
<b>Net Rental Income</b>	687,010	700,750	1,022,143	1,042,586	1,063,438	1,084,706	1,106,401	1,128,529	1,151,099	1,174,121	1,197,604	1,221,556	1,245,987	1,270,906	1,296,325	1,322,251	1,348,696	1,375,670	1,403,183	1,431,247
<b>OTHER INCOME</b>																				
Laundry, Vending, Tenant Charge:	5,952	6,071	6,192	6,316	6,443	6,571	6,703	6,837	6,974	7,113	7,255	7,401	7,549	7,700	7,854	8,011	8,171	8,334	8,501	8,671
Less Vacancy	(298)	(304)	(310)	(316)	(322)	(329)	(335)	(342)	(349)	(356)	(363)	(370)	(377)	(385)	(393)	(401)	(409)	(417)	(425)	(434)
<b>Net Other Income</b>	5,654	5,767	5,883	6,000	6,121	6,243	6,368	6,495	6,625	6,758	6,893	7,031	7,171	7,315	7,461	7,610	7,762	7,918	8,076	8,237
<b>Effective Gross Income</b>	692,664	706,517	1,028,026	1,048,586	1,069,558	1,090,949	1,112,768	1,135,024	1,157,724	1,180,879	1,204,496	1,228,586	1,253,158	1,278,221	1,303,785	1,329,861	1,356,458	1,383,588	1,411,259	1,439,484
<b>OPERATING EXPENSES</b>																				
Property Management Fees - EGI	27,715	28,269	41,133	41,956	42,795	43,651	44,524	45,414	46,323	47,249	48,194	49,158	50,141	51,144	52,167	53,210	54,274	55,360	56,467	57,596
Property Taxes - Fixed	75,000	77,250	79,568	81,955	84,413	86,946	89,554	92,241	95,008	97,858	100,794	103,818	106,932	110,140	113,444	116,848	120,353	123,964	127,682	131,513
Payroll - Variable	104,160	107,285	110,503	113,818	117,233	120,750	124,372	128,104	131,947	135,905	139,982	144,182	148,507	152,962	157,551	162,278	167,146	172,161	177,325	182,645
Administrative and Leasing - Variab	44,950	46,299	47,687	49,118	50,592	52,109	53,673	55,283	56,941	58,650	60,409	62,221	64,088	66,011	67,991	70,031	72,132	74,296	76,524	78,820
Repairs and Maintenance - Variab	61,631	63,480	65,384	67,346	69,366	71,447	73,591	75,798	78,072	80,414	82,827	85,312	87,871	90,507	93,222	96,019	98,900	101,867	104,923	108,070
Grounds Maintenance - Variable	10,447	10,760	11,083	11,416	11,758	12,111	12,474	12,848	13,234	13,631	14,040	14,461	14,895	15,342	15,802	16,276	16,764	17,267	17,785	18,319
Utilities - Fixed	46,004	47,384	48,806	50,270	51,778	53,331	54,931	56,579	58,276	60,025	61,826	63,680	65,591	67,558	69,585	71,673	73,823	76,038	78,319	80,668
Insurance - Fixed	16,365	16,856	17,361	17,882	18,419	18,971	19,540	20,127	20,731	21,352	21,993	22,653	23,332	24,032	24,753	25,496	26,261	27,049	27,860	28,696
Miscellaneous - Variable	1,860	1,916	1,973	2,032	2,093	2,156	2,221	2,288	2,356	2,427	2,500	2,575	2,652	2,731	2,813	2,898	2,985	3,074	3,167	3,262
<b>Total Operating Expenses</b>	388,132	399,498	423,500	435,793	448,447	461,473	474,881	488,682	502,888	517,511	532,564	548,059	564,009	580,428	597,330	614,728	632,638	651,074	670,053	689,590
<b>NET OPERATING INCOME - NO RESERVES</b>	304,532	307,019	604,526	612,793	621,111	629,476	637,888	646,342	654,836	663,367	671,932	680,527	689,148	697,793	706,456	715,133	723,821	732,513	741,207	749,895
<b>REPLACEMENT RESERVES - \$450</b>	-	(16,601)	(29,027)	(29,608)	(30,200)	(30,804)	(31,420)	(32,048)	(32,689)	(33,343)	(34,010)	(34,690)	(35,384)	(36,092)	(36,813)	(37,550)	(38,301)	(39,067)	(39,848)	(40,645)
<b>NET OPERATING INCOME - RESERVES</b>	304,532	290,418	575,499	583,186	590,911	598,673	606,468	614,294	622,147	630,024	637,922	645,837	653,764	661,701	669,642	677,583	685,520	693,447	701,358	709,250



**CASH FLOW**  
Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

Leased Period Year	100.0% 1 2021	100.0% 2 2022	100.0% 3 2023	100.0% 4 2024	100.0% 5 2025	100.0% 6 2026	100.0% 7 2027	100.0% 8 2028	100.0% 9 2029	100.0% 10 2030	100.0% 11 2031	100.0% 12 2032	100.0% 13 2033	100.0% 14 2034	100.0% 15 2035	100.0% 16 2036	100.0% 17 2037	100.0% 18 2038	100.0% 19 2039	100.0% 20 2040	
<b>CASH FLOW</b>																					
Net Operating Income	304,532	307,019	604,526	612,793	621,111	629,476	637,888	646,342	654,836	663,367	671,932	680,527	689,148	697,793	706,456	715,133	723,821	732,513	741,207	749,895	
<b>HARD DEBT SERVICE</b>																					
HUD 221 (d)(4)	(75,359)	(228,888)	(286,554)	(293,237)	(292,974)	(292,704)	(292,427)	(292,142)	(291,850)	(291,550)	(291,242)	(290,925)	(290,601)	(290,267)	(289,924)	(289,573)	(289,212)	(288,841)	(288,460)	(288,069)	
HUD 221 (d)(4)	(65,892)	(158,046)	(157,908)	(157,767)	(157,622)	(157,473)	(157,320)	(157,163)	(157,002)	(156,837)	(156,667)	(156,492)	(156,313)	(156,129)	(155,940)	(155,746)	(155,546)	(155,342)	(155,132)	(154,916)	
<b>TOTAL HARD DEBT SERVICE</b>	<b>(141,252)</b>	<b>(386,934)</b>	<b>(444,462)</b>	<b>(451,004)</b>	<b>(450,596)</b>	<b>(450,177)</b>	<b>(449,747)</b>	<b>(449,306)</b>	<b>(448,852)</b>	<b>(448,386)</b>	<b>(447,908)</b>	<b>(447,417)</b>	<b>(446,913)</b>	<b>(446,396)</b>	<b>(445,864)</b>	<b>(445,318)</b>	<b>(444,758)</b>	<b>(444,183)</b>	<b>(443,592)</b>	<b>(442,985)</b>	
Replacement Reserves	-	(16,601)	(29,027)	(29,608)	(30,200)	(30,804)	(31,420)	(32,048)	(32,689)	(33,343)	(34,010)	(34,690)	(35,384)	(36,092)	(36,813)	(37,550)	(38,301)	(39,067)	(39,848)	(40,645)	
<b>CASH FLOW TO DEVELOPMENT COSTS</b>	<b>50.0%</b>	<b>(81,640)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>AFTER DEBT SERVICE AND RESERVES</b>																					
CREA Asset Management Fee	6,200	-	(96,515)	131,037	132,182	140,315	148,495	156,721	164,988	173,295	181,638	190,014	198,419	206,851	215,305	223,778	232,265	240,762	249,264	257,767	
Operating Deficit Reserve Release	440,000	-	(3,100)	(6,386)	(6,578)	(6,775)	(6,978)	(7,187)	(7,403)	(7,625)	(7,854)	(8,090)	(8,332)	(8,582)	(8,840)	(9,105)	(9,378)	-	-	-	
Working Capital Reserve Release	210,000	-	214,221	-	-	-	-	-	-	-	-	-	-	-	-	-	505,769	-	-	-	
Incentive Leasing Fee	50.0%	(40,820)	(23,876)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>DISTRIBUTABLE CASH FLOW</b>																					
Deferred Development Fee Payments (6% interest)	347,703	(40,820)	(90,730)	(124,651)	(125,604)	(133,540)	(141,517)	(149,533)	(157,585)	(165,670)	(173,784)	(181,924)	(190,087)	(198,269)	(206,466)	(214,673)	(222,916)	(231,204)	(239,537)	(247,915)	
<b>AFTER DEFERRED DEVELOPMENT FEES</b>																					
		(0)	(0)	(0)	34,102	133,540	141,517	149,533	157,585	165,670	173,784	181,924	190,087	198,269	206,466	214,673	222,916	231,204	239,537	247,915	
<b>SOFT DEBT SERVICE</b>																					
<b>TOTAL SOFT DEBT SERVICE</b>																					
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>LEASE UP RESERVE TO OPERATING DEFICITS</b>																					
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>AVAILABLE FOR FEES</b>																					
Partnership Management Fee	6,200	(0)	(0)	(0)	34,102	133,540	141,517	149,533	157,585	165,670	173,784	181,924	190,087	198,269	206,466	214,673	222,916	231,204	239,537	247,915	
		-	-	-	(16,064)	(6,775)	(6,978)	(7,187)	(7,403)	(7,625)	(7,854)	(8,090)	(8,332)	(8,582)	(8,840)	(9,105)	(9,378)	-	-	-	
<b>AVAILABLE FOR DISTRIBUTIONS</b>																					
		(0)	(0)	(0)	18,038	126,765	134,539	142,346	150,182	158,044	165,930	173,834	181,755	189,687	197,626	205,568	213,517	221,474	229,439	237,412	
<b>FEES/TO GENERAL PARTNER</b>																					
Incentive Management Fee	90.00%	(0)	(0)	(0)	16,235	114,089	121,085	128,111	135,164	142,240	149,337	156,451	163,579	170,718	177,863	185,011	192,164	199,324	206,489	213,659	
General Partner Distributions	12.00%	-	-	-	(16,235)	(114,089)	(121,085)	(128,111)	(135,164)	(142,240)	(149,337)	(156,451)	(163,579)	(170,718)	(177,863)	(185,011)	(192,164)	(199,324)	(206,489)	(213,659)	
		0	0	0	-	-	-	(1,766)	(6,364)	(10,938)	(15,485)	(20,001)	(24,481)	(28,921)	(33,316)	(37,662)	(41,959)	(46,206)	(50,403)	(54,550)	
<b>TO LIMITED PARTNER</b>																					
Investment Member Distributions	10.00%	-	-	-	(1,804)	(12,677)	(13,454)	(14,235)	(15,018)	(15,804)	(16,593)	(17,383)	(18,175)	(18,969)	(19,763)	(20,557)	(21,351)	-	-	-	
<b>REMAINING CASH FLOW</b>																					
		-	-	(0)	0	(0)	0	0	(0)	-	0	0	(0)	(0)	0	0	-	-	-	-	
<b>DEBT SERVICE COVERAGE RATIO</b>																					
		-	0.75	1.29	1.29	1.31	1.33	1.35	1.37	1.39	1.41	1.42	1.44	1.46	1.48	1.50	1.52	1.54	1.56	1.58	1.60



**TAXABLE INCOME (LOSS)**  
Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

Leased Period	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	
<b>TAXABLE INCOME</b>																					
Net Operating Income	304,532	307,019	604,526	612,793	621,111	629,476	637,888	646,342	654,836	663,367	671,932	680,527	689,148	697,793	706,456	715,133	723,821	732,513	741,207	749,895	
Operating Deficit Interest	-	-	4,400	4,444	4,488	4,533	4,579	4,624	4,671	4,717	4,765	4,812	4,860	4,909	4,958	5,008	-	-	-	-	
Replacement Reserve Interest	2,115	2,219	2,469	2,787	3,114	319	633	957	1,290	1,633	261	607	963	1,330	1,708	283	665	1,059	1,464	1,881	
Working Capital Reserve Interest	2,100	2,121	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>TOTAL TAXABLE INCOME</b>	<b>308,747</b>	<b>311,359</b>	<b>611,396</b>	<b>620,024</b>	<b>628,713</b>	<b>634,329</b>	<b>643,100</b>	<b>651,923</b>	<b>660,797</b>	<b>669,718</b>	<b>676,957</b>	<b>685,946</b>	<b>694,972</b>	<b>704,032</b>	<b>713,122</b>	<b>720,424</b>	<b>724,486</b>	<b>733,572</b>	<b>742,670</b>	<b>751,776</b>	
<b>PERMANENT INTEREST EXPENSE</b>																					
HUD 221(d)(4)	(46,631)	(168,480)	(187,815)	(191,850)	(188,867)	(185,805)	(182,660)	(179,431)	(176,116)	(172,711)	(169,215)	(165,625)	(161,940)	(158,155)	(154,268)	(150,278)	(146,180)	(141,973)	(137,652)	(133,216)	
HUD 221(d)(4)	(25,109)	(97,397)	(103,436)	(101,833)	(100,188)	(98,498)	(96,763)	(94,982)	(93,153)	(91,275)	(89,346)	(87,366)	(85,332)	(83,244)	(81,100)	(78,898)	(76,638)	(74,317)	(71,933)	(69,486)	
<b>TOTAL PERMANENT INTEREST EXPENSE</b>	<b>(71,740)</b>	<b>(265,877)</b>	<b>(291,251)</b>	<b>(293,683)</b>	<b>(289,055)</b>	<b>(284,303)</b>	<b>(279,424)</b>	<b>(274,413)</b>	<b>(269,268)</b>	<b>(263,986)</b>	<b>(258,561)</b>	<b>(252,991)</b>	<b>(247,272)</b>	<b>(241,399)</b>	<b>(235,368)</b>	<b>(229,176)</b>	<b>(222,818)</b>	<b>(216,289)</b>	<b>(209,585)</b>	<b>(202,701)</b>	
<b>DEFERRED DEVELOPER FEE INTEREST</b>																					
	-	(17,784)	(16,402)	(11,942)	(5,179)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>CONSTRUCTION PERIOD INTEREST-DEVELOPER</b>																					
	-	(49,900)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>DEPRECIATION</b>																					
Life																					
Personal Property	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Site Work	15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Real Property	30	(166,895)	(265,146)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	(286,533)	
Replacement Reserves	\$450	-	-	-	(62,625)	(100,200)	(60,120)	(36,072)	(52,543)	(55,211)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	(19,876)	
Bonus Depreciation		(1,985,416)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
IRC §267 Depreciation Adjustment		20,121	153,160	(153,360)	(19,922)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>TOTAL DEPRECIATION</b>	<b>(146,774)</b>	<b>(2,097,402)</b>	<b>(439,893)</b>	<b>(306,455)</b>	<b>(349,159)</b>	<b>(386,734)</b>	<b>(346,654)</b>	<b>(322,606)</b>	<b>(322,606)</b>	<b>(339,077)</b>	<b>(341,745)</b>	<b>(319,660)</b>	<b>(306,410)</b>	<b>(306,410)</b>	<b>(332,750)</b>	<b>(344,579)</b>	<b>(321,361)</b>	<b>(307,430)</b>	<b>(307,430)</b>	<b>(336,940)</b>	
Years																					
<b>AMORTIZATION</b>	<b>40.3</b>	<b>(8,838)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(18,792)</b>	<b>(17,676)</b>	<b>(17,676)</b>	<b>(17,676)</b>	<b>(17,676)</b>	
<b>TOTAL NON CASH DEDUCTIONS</b>	<b>(155,612)</b>	<b>(2,116,194)</b>	<b>(458,685)</b>	<b>(325,247)</b>	<b>(367,950)</b>	<b>(405,526)</b>	<b>(365,445)</b>	<b>(341,397)</b>	<b>(341,397)</b>	<b>(357,868)</b>	<b>(360,537)</b>	<b>(338,452)</b>	<b>(325,201)</b>	<b>(325,201)</b>	<b>(351,542)</b>	<b>(363,371)</b>	<b>(339,037)</b>	<b>(325,106)</b>	<b>(325,106)</b>	<b>(354,617)</b>	
<b>EXPENSED ITEMS</b>	<b>(12,400)</b>																				
<b>FEES</b>																					
Cumulative																					
CREA Administration - \$6,200	Yes	-	(3,100)	(6,386)	(6,578)	(6,775)	(6,978)	(7,187)	(7,403)	(7,625)	(7,854)	(8,090)	(8,332)	(8,582)	(8,840)	(9,105)	(9,378)	-	-	-	
Partnership Management Fee - \$6,200	Yes	-	-	-	-	(16,064)	(6,775)	(6,978)	(7,187)	(7,403)	(7,625)	(7,854)	(8,090)	(8,332)	(8,582)	(8,840)	(9,105)	(9,378)	-	-	
Incentive Management Fee - 12.00% (EGI)	-	-	-	-	(16,235)	(114,089)	(121,085)	(126,345)	(128,800)	(131,302)	(133,851)	(136,450)	(139,098)	(141,797)	(144,547)	(147,349)	(150,205)	(162,775)	(166,031)	(169,351)	
Incentive Leasing Fee	50.00%	-	(40,820)	(23,876)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>TOTAL FEES</b>	<b>(43,920)</b>	<b>(30,262)</b>	<b>(6,578)</b>	<b>(39,073)</b>	<b>(127,842)</b>	<b>(135,251)</b>	<b>(140,935)</b>	<b>(143,828)</b>	<b>(146,781)</b>	<b>(149,795)</b>	<b>(152,872)</b>	<b>(156,013)</b>	<b>(159,219)</b>	<b>(162,491)</b>	<b>(165,832)</b>	<b>(159,583)</b>	<b>(162,775)</b>	<b>(166,031)</b>	<b>(169,351)</b>		
<b>TAXABLE INCOME (LOSS)</b>	<b>68,996</b>	<b>(2,182,316)</b>	<b>(185,204)</b>	<b>(17,425)</b>	<b>(72,545)</b>	<b>(183,342)</b>	<b>(137,020)</b>	<b>(104,823)</b>	<b>(93,697)</b>	<b>(98,917)</b>	<b>(91,935)</b>	<b>(58,369)</b>	<b>(33,513)</b>	<b>(21,787)</b>	<b>(36,280)</b>	<b>(37,955)</b>	<b>3,047</b>	<b>29,402</b>	<b>41,949</b>	<b>25,107</b>	
<b>TAXABLE INCOME (LOSS) ALLOCATIONS</b>																					
TBD GP LLC	0.010%	7	(218)	(19)	(2)	(7)	(18)	1,753	6,353	10,928	15,474	19,990	24,473	28,915	33,311	37,654	49,086	3,047	29,402	41,948	25,106
CREA SLP, LLC	0.001%	1	(22)	(2)	(0)	(1)	(2)	(1)	(1)	(1)	(1)	(1)	(1)	(0)	(0)	(0)	(0)	0	0	0	0
Unspecified	99.989%	68,988	(2,182,076)	(185,184)	(17,423)	(72,537)	(183,322)	(138,772)	(111,174)	(104,624)	(114,390)	(111,924)	(82,841)	(62,428)	(55,097)	(73,934)	(535,041)	-	-	-	-
<b>TAX TO BOOK</b>																					
Add Back: Tax Depreciation	166,895	2,250,562	286,533	286,533	349,159	386,734	346,654	322,606	322,606	339,077	341,745	319,660	306,410	306,410	332,750	344,579	321,361	307,430	307,430	336,940	
<b>Less: Book Depreciation</b>																					
Personal Property (incl. Replacement Reserves)	-	(142,381)	(165,002)	(165,002)	(183,268)	(196,314)	(196,314)	(196,314)	(196,314)	(206,379)	(213,568)	(71,187)	(48,566)	(48,566)	(40,882)	(35,393)	(35,393)	(35,393)	(35,393)	(25,328)	
Site Improvements	-	(14,471)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	(16,770)	
Real Property	(125,171)	(202,598)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	(214,900)	
<b>BOOK INCOME (LOSS)</b>	<b>110,719</b>	<b>(291,203)</b>	<b>(295,343)</b>	<b>(127,564)</b>	<b>(138,324)</b>	<b>(224,592)</b>	<b>(218,351)</b>	<b>(210,202)</b>	<b>(199,076)</b>	<b>(197,890)</b>	<b>(195,429)</b>	<b>(41,566)</b>	<b>(7,340)</b>	<b>4,387</b>	<b>23,919</b>	<b>39,561</b>	<b>57,345</b>	<b>69,769</b>	<b>82,316</b>	<b>105,049</b>	
<b>BOOK INCOME (LOSS) ALLOCATIONS</b>																					
TBD GP LLC	0.010%	11	(29)	(30)	(13)	(14)	(22)	2,793	12,739	23,218	30,956	42,492	17,428	6,333	(6,707)	(24,825)	(518,111)	57,345	69,768	82,315	105,048
CREA SLP, LLC	0.001%	1	(3)	(3)	(1)	(1)	(2)	(2)	(2)	(2)	(2)	(2)	(0)	(0)	0	0	0	1	1	1	1
Unspecified	99.989%	110,707	(291,171)	(295,310)	(127,550)	(138,309)	(224,568)	(221,142)	(222,939)	(222,291)	(228,843)	(237,919)	(58,993)	(13,673)	11,093	48,743	557,671	-	-	-	-



**TAX CREDIT AND EQUITY CALCULATION**  
**Shakopee Village Apartments, LP**  
**62 Units / Shakopee, MN**

	<u>NEW / REHAB LOW INCOME</u>	<u>ACQUISITION LOW INCOME</u>
Eligible Development Costs	3,643,036	6,262,550
<b>Plus:</b>		
Eligible Permanent Interest	90,616	
Eligible Acquisition Fees		983,388
Eligible Development Fees	737,022	
<b>Less:</b>		
Energy/Historic Credits	-	
Federal Funds/Rebates	-	
Personal Property		
Site Work		
<b>Eligible Basis</b>	<u>4,470,674</u>	<u>7,245,938</u>
<b>Basis Boost</b>	<u>100%</u>	<u>100%</u>
<b>Total Eligible Basis</b>	4,470,674	7,245,938
<b>Applicable Fraction (62/62)</b>	100.00%	100.00%
<b>Qualified Basis</b>	4,470,674	7,245,938
<b>Applicable %</b>	<u>4.00%</u>	<u>3.08%</u>
<b>Calculated Annual Tax Credits</b>	178,827	223,175
<b>Annual Tax Credit Reservation</b>	177,696	224,454
<b>Limit to Reservation - No</b>	178,827	223,175
<b>Number of Years Available</b>	<u>10</u>	<u>10</u>
<b>Total Tax Credits</b>	1,788,269	2,231,749
<b>Investment Member %</b>	<u>99.989%</u>	<u>99.989%</u>
<b>Fund Tax Credit Allocation</b>	1,788,073	2,231,503
<b>Tax Credit Price</b>	\$ 0.8900	\$ 0.8900
<b>Tax Credit Equity</b>	<u>1,591,385</u>	<u>1,986,038</u>
<b>QUALIFIED BASIS CUSHION</b>	\$00 (0.0%)	\$00 (0.0%)



## LEASE UP AND TAX CREDIT DELIVERY SCHEDULE

Shakopee Village Apartments, LP  
62 Units / Shakopee, MN

### KEY DATES

Admission	July 1, 2021
Rehabilitation Start	July 1, 2021
Rehabilitation Completion	March 1, 2022
Stabilization/Conversion	June 1, 2022
Receipt of Form 8609's	October 1, 2022

### CAPITAL CONTRIBUTIONS & DEVELOPMENT FEES PAYOUT

Installment	Date	Capital Contribution Pay-In Schedule			Cash Development Fee		
		Condition	%	Amount	Cumulative	Amount	%
First	July 1, 2021	Admission	20.0%	\$ 715,485	20.0%	\$ 284,803	20.0%
Second	April 1, 2022	Completion	10.0%	357,742	30.0%	284,803	20.0%
Third	July 1, 2022	Stabilization	39.8%	1,423,390	69.8%	213,602	15.0%
Fourth	January 1, 2023	8609 Receipt	30.2%	1,080,806	100.0%	640,806	45.0%
<b>Totals</b>			<b>100.0%</b>	<b>\$ 3,577,423</b>	<b>100.0%</b>	<b>\$ 1,424,014</b>	<b>100.0%</b>

### LEASE UP & CREDIT DELIVERY

PHYSICAL LEASE UP - 3 BUILDINGS - 62 UNITS						
MONTH	2021		2022		2023	
	January	62	100.0%	0	100.0%	0
February	0	100.0%	0	100.0%	0	100.0%
March	0	100.0%	0	100.0%	0	100.0%
April	0	100.0%	0	100.0%	0	100.0%
May	0	100.0%	0	100.0%	0	100.0%
June	0	100.0%	0	100.0%	0	100.0%
July	0	100.0%	0	100.0%	0	100.0%
August	0	100.0%	0	100.0%	0	100.0%
September	0	100.0%	0	100.0%	0	100.0%
October	0	100.0%	0	100.0%	0	100.0%
November	0	100.0%	0	100.0%	0	100.0%
December	0	100.0%	0	100.0%	0	100.0%
<b>Totals</b>	<b>62</b>	<b>100.0%</b>	<b>62</b>	<b>100.0%</b>	<b>62</b>	<b>100.0%</b>

Tax Credit Pricing	
Low Income	
Federal	State
89.00%	0.00%

### TAX CREDITS @ 99.9890%

YEAR	Low Income	
	Federal	State
2021	-	-
2022	397,635	-
2023	401,958	-
2024	401,958	-
2025	401,958	-
2026	401,958	-
2027	401,958	-
2028	401,958	-
2029	401,958	-
2030	401,958	-
2031	401,958	-
2032	4,322	-
2033	-	-
2034	-	-
2035	-	-
2036	-	-
2037	-	-
2038	-	-
2039	-	-
2040	-	-
<b>Totals</b>	<b>4,019,576</b>	<b>-</b>

TAX CREDIT LEASE UP - 62 UNITS						
MONTH	2022		2023		2024	
	January	58	93.5%	0	100.0%	0
February	0	93.5%	0	100.0%	0	100.0%
March	4	100.0%	0	100.0%	0	100.0%
April	0	100.0%	0	100.0%	0	100.0%
May	0	100.0%	0	100.0%	0	100.0%
June	0	100.0%	0	100.0%	0	100.0%
July	0	100.0%	0	100.0%	0	100.0%
August	0	100.0%	0	100.0%	0	100.0%
September	0	100.0%	0	100.0%	0	100.0%
October	0	100.0%	0	100.0%	0	100.0%
November	0	100.0%	0	100.0%	0	100.0%
December	0	100.0%	0	100.0%	0	100.0%
<b>Totals</b>	<b>62</b>	<b>100.0%</b>	<b>62</b>	<b>100.0%</b>	<b>62</b>	<b>100.0%</b>





**CAPITAL ACCOUNTS AND MINIMUM GAIN ANALYSIS**  
 Shakopee Village Apartments, LP  
 62 Units / Shakopee, MN

Leased Period Year	100.0% 1	100.0% 2	100.0% 3	100.0% 4	100.0% 5	100.0% 6	100.0% 7	100.0% 8	100.0% 9	100.0% 10	100.0% 11	100.0% 12	100.0% 13	100.0% 14	100.0% 15	100.0% 16	100.0% 17	100.0% 18	100.0% 19	100.0% 20	
Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	
<b>Investment Member - 99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>99.989%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>
Beginning Capital Account	-	784,473	383,529	1,279,151	1,259,924	1,174,711	977,935	824,929	698,736	578,308	447,325	318,018	217,001	135,605	60,745	(33,745)	(640,714)	(640,714)	(640,714)	(640,714)	
Capital Contributions	715,485	1,781,132	1,080,806	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	68,988	(2,182,076)	(185,184)	(17,423)	(72,537)	(183,322)	(138,772)	(111,174)	(104,624)	(114,390)	(111,924)	(82,841)	(62,428)	(55,097)	(73,934)	(535,041)	(71,928)	-	-	-	
Cash Distributions	-	-	-	(1,804)	(12,677)	(13,454)	(14,235)	(15,018)	(15,804)	(16,593)	(17,383)	(18,175)	(18,969)	(19,763)	(20,557)	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>784,473</b>	<b>383,529</b>	<b>1,279,151</b>	<b>1,259,924</b>	<b>1,174,711</b>	<b>977,935</b>	<b>824,929</b>	<b>698,736</b>	<b>578,308</b>	<b>447,325</b>	<b>318,018</b>	<b>217,001</b>	<b>135,605</b>	<b>60,745</b>	<b>(33,745)</b>	<b>(640,714)</b>	<b>(640,714)</b>	<b>(640,714)</b>	<b>(640,714)</b>	<b>(640,714)</b>	
<b>Investment Member- State - 0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	
Beginning Capital Account	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Capital Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Cash Distributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>General Partner(s) - 0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>0.010%</b>	<b>100.000%</b>	<b>100.000%</b>	<b>100.000%</b>	<b>100.000%</b>
Beginning Capital Account	-	107	(111)	(130)	(132)	(139)	(157)	(171)	(182)	(193)	(204)	(216)	(224)	(231)	(237)	(245)	(255)	(303)	(75,242)	(129,074)	(175,542)
Capital Contributions	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	-	7	(218)	(19)	(2)	(7)	(18)	1,753	6,353	10,928	15,474	19,990	24,473	28,915	33,311	37,654	497,086	3,047	29,402	41,948	25,106
Cash Distributions	-	0	0	0	0	0	0	(1,766)	(6,364)	(10,938)	(15,485)	(20,001)	(24,481)	(28,921)	(33,316)	(37,662)	(497,144)	(77,987)	(83,234)	(88,416)	(93,527)
<b>Ending Capital Account</b>	<b>107</b>	<b>(111)</b>	<b>(130)</b>	<b>(132)</b>	<b>(139)</b>	<b>(157)</b>	<b>(171)</b>	<b>(182)</b>	<b>(193)</b>	<b>(204)</b>	<b>(216)</b>	<b>(224)</b>	<b>(231)</b>	<b>(237)</b>	<b>(245)</b>	<b>(255)</b>	<b>(303)</b>	<b>(75,242)</b>	<b>(129,074)</b>	<b>(175,542)</b>	<b>(243,962)</b>
<b>Special Limited Partner - 0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.001%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>
Beginning Capital Account	-	101	79	77	77	76	74	73	72	71	70	69	68	68	68	68	67	67	67	67	68
Capital Contributions	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Credits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Taxable Income (Loss)	1	(22)	(2)	(0)	(1)	(2)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(0)	(0)	(0)	(0)	0	0	0	
Cash Distributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Ending Capital Account</b>	<b>101</b>	<b>79</b>	<b>77</b>	<b>77</b>	<b>76</b>	<b>74</b>	<b>73</b>	<b>72</b>	<b>71</b>	<b>70</b>	<b>69</b>	<b>68</b>	<b>68</b>	<b>68</b>	<b>68</b>	<b>67</b>	<b>67</b>	<b>67</b>	<b>67</b>	<b>68</b>	
<b>Capital Accounts</b>	<b>797,325</b>	<b>784,681</b>	<b>383,497</b>	<b>1,279,098</b>	<b>1,259,869</b>	<b>1,174,648</b>	<b>977,852</b>	<b>824,831</b>	<b>698,626</b>	<b>578,186</b>	<b>447,191</b>	<b>317,871</b>	<b>216,845</b>	<b>135,442</b>	<b>60,576</b>	<b>(33,922)</b>	<b>(640,950)</b>	<b>(715,889)</b>	<b>(769,721)</b>	<b>(816,188)</b>	<b>(884,608)</b>
Unpaid Capital Contributions	2,861,938	2,861,938	1,080,806	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Outstanding Debt	10,500,000	10,501,495	10,400,047	10,246,836	10,089,515	9,927,975	9,762,100	9,591,777	9,416,885	9,237,301	9,052,900	8,863,553	8,669,127	8,469,485	8,264,488	8,053,992	7,837,850	7,615,910	7,388,016	7,154,010	6,913,726
Plus Accrued Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Grants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Other Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Plus Deferred Development Fees	296,396	273,360	199,032	86,323	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Total Capital and Debt</b>	<b>14,455,660</b>	<b>14,421,473</b>	<b>12,063,382</b>	<b>11,612,257</b>	<b>11,349,385</b>	<b>11,102,622</b>	<b>10,739,953</b>	<b>10,416,608</b>	<b>10,115,511</b>	<b>9,815,487</b>	<b>9,500,091</b>	<b>9,181,424</b>	<b>8,885,972</b>	<b>8,604,927</b>	<b>8,325,064</b>	<b>8,020,070</b>	<b>7,196,900</b>	<b>6,900,021</b>	<b>6,618,295</b>	<b>6,337,822</b>	<b>6,029,118</b>
<b>Assets</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>	<b>1,115,908</b>
Land	11,625,996	11,550,229	9,472,436	9,032,543	8,726,088	8,690,055	8,303,322	7,956,668	7,634,062	7,311,457	7,144,916	6,803,171	6,483,511	6,177,101	5,870,692	5,719,335	5,374,756	5,053,395	4,745,965	4,438,535	4,301,389
Depreciable Assets	211,468	213,582,68	232,402	263,898	296,293	16,480	47,603	79,656	112,661	146,641	9,081	43,352	78,649	114,996	152,418	195,803	500,761	9,547	47,380	86,346	126,471
Replacement Reserves	650,000	652,100	440,000	444,400	448,844	453,332	457,866	462,444	467,069	471,740	476,457	481,222	486,034	490,894	495,803	500,761	-	-	-	-	(0)
Other Reserves	739,988	731,150	712,358	693,566	674,774	655,983	637,191	618,399	599,607	580,816	562,024	543,232	524,440	505,648	486,857	468,065	449,273	431,597	413,920	396,244	378,568
Amortized Assets	62,300	108,504	40,278	11,942	37,478	120,863	128,063	133,532	136,203	138,927	141,705	144,540	147,430	150,379	153,387	156,454	159,583	162,775	166,031	169,351	172,738
Expensed Assets	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Other Assets (Syndication Costs)	14,455,660	14,421,473	12,063,382	11,612,257	11,349,385	11,102,622	10,739,953	10,416,608	10,115,511	9,815,487	9,500,091	9,181,424	8,885,972	8,604,927	8,325,064	8,020,070	7,196,900	6,900,021	6,618,295	6,337,822	6,029,118
<b>Total Assets</b>	<b>14,455,660</b>	<b>14,421,473</b>	<b>12,063,382</b>	<b>11,612,257</b>	<b>11,349,385</b>	<b>11,102,622</b>	<b>10,739,953</b>	<b>10,416,608</b>	<b>10,115,511</b>	<b>9,815,487</b>	<b>9,500,091</b>	<b>9,181,424</b>	<b>8,885,972</b>	<b>8,604,927</b>	<b>8,325,064</b>	<b>8,020,070</b>	<b>7,196,900</b>	<b>6,900,021</b>	<b>6,618,295</b>	<b>6,337,822</b>	<b>6,029,118</b>
<b>Total Collateral Assets</b>	<b>13,603,372</b>	<b>13,531,819</b>	<b>11,260,746</b>	<b>10,412,349</b>	<b>10,138,289</b>	<b>9,822,444</b>	<b>9,466,833</b>	<b>9,152,232</b>	<b>8,862,632</b>	<b>8,574,005</b>	<b>8,269,905</b>	<b>7,962,431</b>	<b>7,678,068</b>	<b>7,408,006</b>	<b>7,139,018</b>	<b>6,844,790</b>	<b>6,538,044</b>	<b>6,255,649</b>	<b>5,988,344</b>	<b>5,722,227</b>	<b>5,427,812</b>
<b>First Mortgage (HUD 221(d)(4))</b>		3,661,423	3,608,373	3,553,900	3,497,967	3,440,532	3,381,557	3,321,001	3,258,819	3,194,970	3,129,408	3,062,088	2,992,961	2,921,981	2,849,096	2,774,256	2,697,409	2,618,500	2,537,475	2,454,276	2,368,846
Partnership Nonrecourse	3,661,423	3,608,373	3,553,900	3,497,967	3,440,532	3,381,557	3,321,001	3,258,819	3,194,970	3,129,408	3,062,088	2,992,961	2,921,981	2,8							

### APPENDIX III

The following provisions shall be applicable to a purchase of the Project Property by the General Partner or its designee pursuant to *Section 8.5* or *Section 8.6* (“Purchaser”):

**Section 1. Purchase Price.** The purchase price shall be payable in full at the closing by wire transfer or certified or cashier’s check or, with any required consents of mortgage holders, by the Purchaser assuming the liabilities secured by mortgages and other liens on the Project Property and paying the balance of the purchase price, if any, in cash, wire transfer or by certified or cashier’s check at the closing.

**Section 2. Property Purchased.** The property (“Premises”) to be transferred to Purchaser shall include the following:

(a) The land upon which the Project Property is situated and all buildings, structures, improvements, fixtures and appurtenances located on or related to the land and buildings (collectively, “Real Property”).

(b) All tangible and intangible (other than cash balances and receivables) personal property (“Personal Property”) affixed to or used in connection with the Project Property and which are owned by the Partnership and used in connection with the operation and maintenance of the Project Property.

(c) All tenant leases, along with all tenant security deposits then held by or for the Partnership (and Purchaser shall accept the assignment of the tenant leases and tenant security deposits and shall assume the leases and landlord’s obligations thereunder). No adjustment on the Purchase Price shall be made in the event of any shortage in the tenant security deposit amounts.

**Section 3. Survey.** Purchaser shall be responsible for obtaining and paying for any evidence of title (title search, title commitment, etc.) and survey desired by Purchaser.

**Section 4. Taxes and Assessments; Prorations; Adjustments.**

(a) Partnership shall also credit on the purchase price all unpaid real estate taxes and special assessments not yet due for the years prior to the closing and a portion of such taxes and special assessments for the year of closing prorated through the date of closing. The proration of the special assessments and undetermined real estate taxes shall be based upon a 365-day year and on the most recently available assessment information and tax rate and valuation.

(b) Partnership shall pay for or arrange with Purchaser for billing and service cut-offs (or credit against the purchase price) of water, sewer, street cleaning and any other charges accrued through the day of closing and utilities which are not payable by tenants of the Project Property.

(c) All rents payable by the tenants of the Project Property shall be prorated through the date of closing and the purchase price shall be adjusted accordingly. All advance rents and security deposits paid by such tenants shall be credited against the purchase price.



(d) Purchaser agrees to use its best efforts to collect on behalf of Partnership any tenant rents that were due prior to the month of closing and, if Purchaser receives any such rents, deliver the same to Partnership.

(e) The following adjustments shall also be made on the basis of a 365 day year or 30 day calendar month as appropriate and as of the day of closing: (i) amounts paid or due or owing under any contracts or agreements relating to the operation or maintenance of the Project Property. All amounts that are owed by Partnership for the period prior to the month of closing under any item set forth in this paragraph shall be paid by Partnership.

(f) Partnership shall be obligated to and shall deliver only those tenant security deposits and other tenant funds held by or for Partnership at closing that were received by Partnership.

(g) Replacement reserves and other reserves or cash accounts maintained by the Partnership shall be transferred to the Purchaser, if required by a lender or other third party controlling the account and the Purchase Price payable by Purchaser shall be correspondingly increased.

(h) The adjustments and prorations described in this Section 4 shall increase or decrease the amount due (but not below the liabilities secured by liens on the Project Property) from the Purchaser at closing. The provisions of this Section 4 shall survive the closing.

**Section 5. Transfer of Real Property.** Partnership shall convey and transfer merchantable title to the Real Property by a recordable Limited Warranty Deed. Purchaser shall cause, at Partnership's cost, the Limited Warranty Deed to contain all necessary state, county and city approvals. Purchaser shall pay transfer fees and taxes associated with the conveyance of the Real Property to Purchaser.

**Section 6. Personal Property.** The Personal Property shall be conveyed by a special warranty bill of sale to Purchaser at closing.

**Section 7. As Is Condition.** The Premises shall be conveyed at closing in an "as is" condition. No express or implied warranties are given or made with respect to the condition of the same and Purchaser shall acknowledge that it is its obligation to inspect the Premises and accept the same in its "as is" condition at closing. No express or implied warranties are or will be given or made by Partnership.

**Section 8. Condemnation, Casualty.**

(a) **Condemnation.** Purchaser shall not be obligated to perform under *Sections 8.5 or 8.6* (as the case may be) of the Partnership Agreement if on the closing date any portion of the Real Property has been condemned or sold under threat of condemnation, or is the subject of a condemnation proceeding, in which event this Partnership Agreement shall terminate unless Purchaser elects to close. If Purchaser so elects to close, it shall be entitled to receive any condemnation proceeds payable with respect to the Real Property or Personal Property to Partnership.

(b) Casualty.

(i) Purchaser shall not be obligated to perform under its purchase obligation if on or before the closing date any portion of the Real Property has been damaged by fire, storm, flood or other casualty, the damage of which is in excess of \$1,000,000. In the case of such damage in an amount less than \$1,000,000, or if Purchaser elects not to terminate its purchase obligation in the event of such damage in an amount in excess of \$1,000,000, Purchaser shall be entitled to the proceeds of the insurance policy payable as a result of such damage and Purchaser's purchase obligation shall remain in full force and effect without any purchase price adjustment.

(ii) If the amount of such damage is in excess of \$1,000,000, Purchaser may elect by written notice to the Limited Partner, given no later than 30 days after receipt of Purchaser's notice of the casualty, not to terminate its purchase obligation.

**Section 9. Closing; Possession.**

(a) As used in this Appendix, references to "a closing," the "closing" or "day of closing" shall mean a closing of the purchase and sale contemplated by *Sections 8.5 or 8.6*, as the case may be, of the Partnership Agreement and this Addendum. Purchaser shall be entitled to possession of the Premises on the day of closing, subject to rights of tenants.

(b) Unless the Purchaser's election to purchase is terminated pursuant to the provisions hereof, the closing shall occur within 30 Business Days after the determination of the purchase price, with all prorations and adjustments made as of the date of closing. The closing shall be at a place and time in the county and state where the Real Property is located as designated by the General Partner.

**Section 10. Partnership to Retain Receivables.** Purchaser shall agree that Partnership shall retain all of the rights to any and all receivables and claims for recovery related to any transaction or matter prior to the date of closing. Purchaser shall cooperate, at no cost to Purchaser, in the collection of any such receivable or the prosecution of any such claim and, if collection thereof is received by Purchaser, the proceeds thereof will be promptly remitted to Partnership.

**Section 11. Subordination to Project Loans.** The option to purchase the Project pursuant to Section 8.5 will be subject and subordinate in all respect to the terms and conditions of the Project Loans encumbering the Project including (a) the lien, security interest and rights granted by the loan documents evidencing the First Mortgage Loan, (b) all advances or charges made or accruing under or secured by the loan documents evidencing the First Mortgage Loan and (c) any extensions, modifications or renewals of the indebtedness secured by the loan documents evidencing the First Mortgage Loan.

## APPENDIX IV

### Loan Terms Summary

- A. \$6,825,000 “**Bond Loan**” from the Bond Issuer
1. Type of Loan: Construction (from proceeds of the Bonds)
  2. Amount: \$6,825,000
  3. Lender: Bond Issuer
  4. Interest Rate: 0.25% per annum
  5. Payments: Interest payments each February 1 and August 1 commencing February 1, 2022 with the principal due upon maturity (or Initial Mandatory Tender Date of August 1, 2022 if no remarketing occurs)
  6. Minimum Amortization Period: N/A
  7. Maturity Date: August 1, 2024 (with an Initial Mandatory Tender Date of August 1, 2022)
  8. Priority Position: Cash-collateralized
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: Fully funded at closing
- B. \$10,500,000 “**First Mortgage Loan**” from the First Mortgage Lender
1. Type of Loan: Construction and Permanent
  2. Amount: \$10,500,000
  3. Lender: First Mortgage Lender
  4. Fixed Interest Rate: 2.65% per annum plus 0.25% mortgage insurance premium
  5. Payments: Equal monthly payments of principal and interest commencing July 1, 2022 with a balloon payment upon maturity
  6. Minimum Amortization Period: 40 years
  7. Maturity Date: 40 years
  8. Priority Position: First
  9. Nonrecourse/Recourse: Nonrecourse
  10. When Funded?: In draws commencing at closing to cash-collateralize the Bond Loan
- C. \$1,364,000 “**Bridge Loan**” from the Bridge Lender
1. Type of Loan: Construction
  2. Amount: \$1,364,000
  3. Lender: Bridge Lender
  4. Variable Interest Rate: Greater of 3.25% per annum or LIBOR + 2.5%
  5. Payments: Monthly payments of interest with a balloon payment upon maturity

- |     |                                     |   |
|-----|-------------------------------------|---|
| 6.  | <u>Minimum Amortization Period:</u> | N/A   |
| 7.  | <u>Maturity Date:</u>               | Earlier of date of Third Installment or January 8, 2023 |
| 8.  | <u>Priority Position:</u>           | Second  |
| 9.  | <u>Nonrecourse/Recourse:</u>        | Nonrecourse   |
| 10. | <u>When Funded?:</u>                | At closing  |

## **APPENDIX V**

### **Legal Description of the Land**

The East 321 feet of the Northerly 333 feet of the Westerly 3/4 of the Northwest Quarter of the Southeast Quarter of Section 6, Township 115, Range 22, according to the United States Government Survey thereof, Scott County, Minnesota.

## APPENDIX VI

### Insurance Requirements

The following are construction and permanent insurance requirements. This outline describes the minimum types and amounts of insurance that are satisfactory to CREA, LLC, its affiliates, and/or its assigns. *Special Limited Partner reserves the right to modify the insurance requirements as conditions warrant with written notice to the General Partner.*

#### **Carrier Requirement**

- All carriers must be A- or better rated according to A.M. Best Company, with a Financial Size Category rating by A.M. Best of VIII or higher.

#### **Policy Requirements**

- Reference the name of the insured property (“Property”), including address, in the “description section” of the insurance certificate.
- Policies shall provide CREA entities a 30-day prior written notice of cancellation, termination, or reduction of coverage except for non-payment of premium where ten (10) days notice shall be given.
- Insurance binders, certificates, and policies must name the identified CREA entity shown below as an additional insured.
- Copies of policies, binders and certificates shall be provided to the SLP and Integratec Services, LLC (to [crea@integratec.biz](mailto:crea@integratec.biz)) no later than the effective date of the policy.

#### **Additional Insured / Loss Payee or Certificate Holder, as applicable:**

- For all policies, the following entities should be named:
  - Investor Limited Partner – its successors and/or its assigns
  - CREA SLP, LLC – its successors and/or its assigns

#### **Construction Period Coverage**

Prior to the commencement of any construction activities, the General Partner shall obtain (or cause to be obtained by the general contractor or the architect, as applicable) the following coverages, which shall remain in force until receipt of the certificates of occupancy for all buildings:

<b>Partnership</b>	
<b>Builder’s All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
Named Insured:	Partnership
Loss Payee:	See Page 1
Form:	Completed Value (Non-Reporting Form)

<b>Builder's All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures.</b>	
Perils:	Special form "All Risk" policy, including wind/hail, subject to the policy terms, conditions and exclusions
	Flood and Earthquake exclusion acceptable (unless specifically required by the Special Limited Partner. Wind coverage must be provided.
Valuation:	Replacement Cost including the existing structure(s), if applicable
Deductible:	Not to exceed \$25,000 per occurrence
	If located in Tier One Wind County, wind/hail deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000
Endorsements/Extensions:	Permission to Occupy Endorsement Renovations Coverage Endorsement Loss of Rents (12 Months)/Delay in Start Up. Projects located in Tier 1 hurricane counties must maintain Loss of Rent coverage equal to 18 months of rental income. Soft Costs Ordinance and Law Coverage (Mandatory if zoned legal non-conforming) Waiver of Co-insurance or Agreed Value Endorsement Transit Must Obtain Property Insurance on a Building by Building Basis once the Certificate of Occupancy is received for that building <ul style="list-style-type: none"> <li>NOTE: Limited Partner and Special Limited Partner to be associated in the adjustment of any claim</li> </ul>

<b>Commercial General Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible	No greater than \$10,000	
	Primary and Non Contributory	

<b>Umbrella Liability</b>		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
Deductible/SIR:	\$10,000	

<b>Boiler and Machinery (if property has centralized equipment, boilers or elevators)</b>	
Named Insured:	Partnership

Loss Payee/Additional Interest:	See Page 1
Form:	Comprehensive Form
Limit:	Total Building Value
Valuation:	Replacement Cost
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement

<b>Additional Coverages, if applicable</b>	
Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone "A" or "V" – or any sub-designation of Zone "A" or "V").</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril. If excluded, a separate wind/hail policy must be provided at the same limits as the property or builders risk with 12 month's rents. For properties in Tier 1 hurricane counties, coverage must be 18 months of rental income.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>

<b>Worker's Compensation and Employer's Liability*</b>		
If the Partnership has employee(s), provide evidence of Workers Compensation as applicable by law.		
Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000

<b>Automobile</b>		
If Partnership owns vehicles:		
Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

<b>General Contractor</b>
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**Commercial General Liability**

Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per project" basis	
Deductible	No greater than \$10,000	

**Umbrella Liability**

Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000
	Note: umbrella to be written on a following form	

**Worker's Compensation, Employer's Liability, and Automobile Liability**

Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

**Architect****Professional (Errors & Omissions) Liability – including contractual liability coverage**

Certificate Holder:	See Page 1	
Minimum Limit:	\$1,000,000 (please supply Certificate of Insurance on an ACORD Form 25)	

<b>Property Management Company</b>	
Note: Coverage required for both construction and permanent phases	

<b>Commercial General Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

<b>Umbrella Liability</b>		
Named Insured:	Property Management Company	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

<b>Worker's Compensation, Employer's Liability, Automobile Liability, and Fidelity Bond</b>		
Certificate Holder:	See Page 1	
Worker's Compensation:	Per accident	\$1,000,000
Employer's Liability:	Disease - policy limit	\$1,000,000
	Disease - each employee	\$1,000,000
Fidelity Bond/Crime	(6) months of projects gross rental receipts. Coverage must be in full effect at time of occupancy. Coverage to be held by the General Partner or the Property Management Company	
Automobile Liability:	Per accident Combined Single Limit (CSL)	\$1,000,000

### Permanent Phase Coverage

<b>Partnership</b>
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<b>Property Insurance</b>	
Named Insured:	Partnership
Loss Payee:	See Page 1
Form:	ISO Special Form (please supply Evidence of Property Insurance, ACORD form 27, 28 or other "Special" or "All Risk" form); Copies of Policies to follow within 90 day of acceptance

Limits:	Building (Real Property):	100% of Insurable Value (Replacement Cost)
	Contents (Personal Property):	Replacement Cost Coverage
	Business Interruption:	12 months of gross rental income with extra expense. This is to include tenant's gross rents as well as any subsidies. For properties in Tier 1 hurricane counties Business Interruption must extend to 18 months of gross rental income with extra expense.
Valuation:	Replacement Cost	
Deductible:	\$25,000 per occurrence If located in Tier 1 Wind County - wind deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed \$25,000	
Extensions:	Vacancy/Un-occupancy up to 60 days Ordinance and Law (Mandatory if zoned legal non-conforming) Waiver of Coinsurance/Agreed Amount Endorsement	

Commercial General Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Form:	ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)	
Minimum Limits:	Aggregate Limit	\$2,000,000
	Products / completed operations aggregate	\$1,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$50,000
	Medical Expense	\$5,000
	Note: aggregate limits must be written on a "per location" basis	
Deductible:	No greater than \$10,000	

Umbrella Liability		
Named Insured:	Partnership	
Additional Insured:	See Page 1	
Minimum Limits:	1-3 stories	\$3,000,000
	4-10 stories	\$5,000,000
	11-20 stories	\$10,000,000
	21 or more	\$25,000,000

Boiler and Machinery (if property has centralized equipment, boilers or elevators)		
Named Insured:	Partnership	
Loss Payee/Additional Interest:	See Page 1	
Form:	Comprehensive Form	
Limit:	Total Building Value	
Valuation:	Repair and/or Replacement	
Extensions:	Loss of Rents with Mechanical Breakdown Endorsement	

<b>Additional Coverages, if applicable</b>	
Flood:	<ul style="list-style-type: none"> <li>• Required if buildings are located within a 100-year flood plain (FEMA Flood Zone "A" or "V" – or any sub-designation of Zone "A" or "V").</li> <li>• Policies must be obtained through the National Flood Insurance Plan (NFIP) in the amount equal to the lesser of the full insurable value or \$250,000 (\$500,000 if 5 or more units) per building with a deductible not to exceed \$5,000 per building.</li> <li>• An excess Flood or Difference in Conditions (DIC) policy should provide for the difference, if any, between the maximum limit provided by NFIP policies and the full insurable value.</li> <li>• Flood policies must be in full effect for both the construction and permanent phases.</li> </ul>
Earthquake:	<ul style="list-style-type: none"> <li>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</li> <li>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage may be waived.</li> <li>• If earthquake coverage is required, it must be in full effect for both construction and permanent phases in the amount not less than full insurance value, with deductible less than 10% Total Insurable Value, and Business Income/Rent Loss at minimum, of 12 month rents.</li> </ul>
Wind:	<ul style="list-style-type: none"> <li>• Must be included peril.</li> </ul>
Ordinance and Law:	<ul style="list-style-type: none"> <li>• Must be obtained when the Property represents a non-conforming use under current building, zoning or land use laws or ordinances. The amount is to cover any losses to the undamaged portion of the building at replacement cost, the demolition cost and the increased cost of construction.</li> </ul>
Terrorism:	<ul style="list-style-type: none"> <li>• Terrorism coverage is not required unless deemed by the special limited partner to be in a high risk area.</li> </ul>
Automobile:	<ul style="list-style-type: none"> <li>• Only required if an automobile is used as part of the property's operations (i.e. transportation van) and titled in the name of the Partnership/Borrower. Liability in the amount of \$1,000,000 is required (per accident combined single limit).</li> </ul>

## **APPENDIX VII**

### **Replacement Reserve Items**

Carpet (not approved for regular unit turnover)  
Resilient Flooring (not approved for regular unit turnover)  
Kitchen Cabinet/Vanity  
Bath Vanity/Toilets/Tubs/Showers  
Countertop  
Oven, range & hood  
Refrigerator  
Dishwasher  
Disposal  
Microwave  
HVAC  
Washer Dryer  
Hot Water Heater  
Swimming Pool  
Exterior Paint  
Tuckpointing  
Roofs  
Basketball Courts  
Drives/Parking/Sidewalks  
Signage  
Gutters and downspouts  
Electrical  
Plumbing  
Irrigation  
Exterior wall cladding  
Fascia  
Tot lot  
Exterior lighting  
Fencing  
Carports  
Windows  
Stairs and landings  
Entry doors  
Computer lab, and the related furniture, fixtures and equipment  
Solar Panels

## APPENDIX VIII

### CAPITAL CONTRIBUTIONS

#### I. First Installment

**\$715,485 (“First Installment”) shall be paid on later of execution of this Agreement and the satisfaction of the following conditions precedent, as determined by the Limited Partner:**

Required Delivery/Event	Notes
1. Admission of the Limited Partner and Special Limited Partner to the Partnership	
2. Receipt of the HAP Contract	
3. Closing and initial funding of the Bond Loan, the First Mortgage Loan and the Bridge Loan	
4. Receipt of a commitment for the First Mortgage Loan	
5. Receipt by the Limited Partner of Building Permits, or satisfactory evidence that the Building Permits will be available upon payment of fees.	
6. Receipt by the Limited Partner of such other documentation as it may reasonably request to satisfy its due diligence requirements including, without limitation, those documents listed on the Limited Partner’s closing checklist, a copy of which has been previously delivered to the General Partner.	

The General Partner shall cause the Partnership to reimburse the Special Limited Partner for due diligence, legal work and issuance of the tax opinion in the amount of \$50,000 from the proceeds of the First Installment. The balance of the proceeds of the First Installment shall be used to pay a portion of the Developer Fee in accordance with the Development Agreement, to fund the HUD Working Capital Reserve and for Development Costs.

II. Second Installment

**\$357,742 (“Second Installment”) shall be paid on a draw basis beginning on the later of April 1, 2022 and/or 10 Business Days after the occurrence and satisfaction of the Second Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Second Installment shall be used first to repay the Bridge Loan and for Development Costs and then to pay a portion of the Developer Fee in accordance with the Development Agreement,.

SHAKOPEE HOUSING PARTNERS, LP

SECOND INSTALLMENT PAYMENT CERTIFICATE

The General Partner of SHAKOPEE HOUSING PARTNERS, LP, a Minnesota limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Second Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Second Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of final title policy with a current date down endorsement, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Construction Completion (except for those bonds or liens permitted pursuant to <i>Section 5.3(p)</i> ).	
4.	Receipt of a lien waiver from the General Contractor with respect to the work performed and/or materials supplied through the date of Construction Completion for which it has been paid to date.	
5.	Certification from the Architect that the Project is completed according to the Plans and Specifications.	
6.	Receipt of a copy of the permanent certificates of occupancy for the Project or evidence satisfactory to the Limited Partner that the City has inspected and approved the rehabilitation in lieu of permanent certificates of occupancy.	
7.	Site visit by the Inspecting SLP Representative and receipt and approval of all documents listed in <i>Section 5.4(a)</i> .	



8.	Receipt by the Special Limited Partner of the Accountants' draft Cost Certification.	
9.	Satisfactory evidence that all environmental remediation of the Project has been completed in accordance with Appendix XI and the requirements of any governmental authority having jurisdiction over the Project.	
10	Post-construction testing shall be completed in order to confirm whether a mitigation system needs to be activated prior to occupancy. If testing results indicate levels at or above 4.0 pCi/L then a mitigation system needs to be activated and subsequent testing is required to confirm the testing results indicate levels are not at or above 4.0 pCi/L.	All required actions (if any) with respect to radon will be performed by a licensed third party consultant.
11	Evidence that (a) the preparer of the Cost Segregation Study has been engaged by the Partnership, (b) work has commenced on the Cost Segregation Study and (c) the final Cost Segregation Study will be delivered in accordance with Section 5.3(xx).	
12	Satisfaction of the conditions to the payment of the First Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SHAKOPEE HOUSING MANAGEMENT, LLC,  
a Minnesota limited liability company

By: Vitus Development IV, LLC, a Delaware limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

III. Third Installment

**\$1,423,390 (“Third Installment”) shall be paid on the later of July 1, 2022 and/or 10 Business Days after the occurrence and satisfaction of the Third Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

In accordance with the terms contained herein, Cost Savings shall be distributed concurrently with the funding of the Third Installment. The proceeds of the Third Installment shall be used to pay a portion of the Developer Fee in accordance with the Development Agreement, to repay the Bridge Loan and for Development Costs.

SHAKOPEE HOUSING PARTNERS, LP

THIRD INSTALLMENT PAYMENT CERTIFICATE

The General Partner of SHAKOPEE HOUSING PARTNERS, LP, a Minnesota limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Third Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Third Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Payment in full of the Bond Loan and full funding of the First Mortgage Loan occurred.	
4.	Achievement of Stabilized Operations, which may occur simultaneously.	
5.	Achievement of Final Endorsement, which may occur simultaneously, and receipt of a copy of the then current rent schedule approved by HUD for the HAP Contract.	
6.	Special Limited Partner’s receipt and approval of a third party review of all the first year’s tenant files for compliance with the Code and State Housing Finance Agency requirements.	
7.	Receipt by the Special Limited Partner of the Accountants’ final Cost Certification and final 50% Test.	
8.	Satisfaction of the conditions to the payment of the Second Installment.	



Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SHAKOPEE HOUSING MANAGEMENT, LLC,  
a Minnesota limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President

IV. Fourth Installment

**\$1,080,806 (“Fourth Installment”) shall be paid on the later of January 1, 2023 and/or 10 Business Days after the occurrence and satisfaction of the Fourth Installment Payment Certificate conditions precedent, as determined by the Limited Partner.**

The proceeds of the Fourth Installment shall be used for Development Costs, to fund all required reserves and to pay a portion of the Developer Fee in accordance with the Development Agreement.

SHAKOPEE HOUSING PARTNERS, LP

FOURTH INSTALLMENT PAYMENT CERTIFICATE

The General Partner of SHAKOPEE HOUSING PARTNERS, LP, a Minnesota limited partnership (the “Partnership”) hereby requests that the Limited Partner fund the Fourth Installment in the amount of \$ \_\_\_\_\_, there being no reduction in the amount initially contemplated pursuant to *Section 5.10* of the Partnership Agreement. Capitalized terms not defined herein shall have the meanings set forth in the Partnership Agreement.

In connection with the foregoing request to fund the Fourth Installment, the General Partner hereby certifies to the Limited Partner, the Special Limited Partner, and their successors and assigns, that the following conditions have been satisfied:

#	Required Delivery/Event	Notes
1.	All terms and conditions contained in <i>Section 2.2(c)</i> have been satisfied.	
2.	Receipt of a date down endorsement or updated title search, evidencing the accuracy of the representation contained in <i>Section 5.3(u)</i> of the Partnership Agreement.	
3.	Receipt of IRS Forms 8609 in form reasonably satisfactory to the Special Limited Partner (which shall include the fully executed Part I & Part II) for all buildings in the Project.	
4.	Receipt by the Special Limited Partner of a properly recorded Restrictive Covenant.	
5.	All reserves required under the Partnership Agreement have been funded in full, which may be contemporaneous with the funding of the Fourth Installment.	
6.	Satisfaction of the conditions to the payment of the Third Installment.	

Upon the Limited Partner's receipt and approval of the conditions immediately above, the Limited Partner shall make a Capital Contribution within ten (10) Business Days.

IN WITNESS WHEREOF, the undersigned has executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SHAKOPEE HOUSING MANAGEMENT, LLC,  
a Minnesota limited liability company

By: Vitus Development IV, LLC, a Delaware  
limited liability company, its Manager

By: \_\_\_\_\_  
Stephen R. Whyte, President



**APPENDIX IX**

**POST-CLOSING ITEMS**

Description of Item

Executed Notice to Proceed

Required Date of Delivery

within 10 days of closing

**APPENDIX X**

**REPORTING REQUIREMENTS**

<b>Report Name</b>	<b>Description</b>	<b>Deadline</b>
<b>Draw Request</b>	Until the Project has attained Construction Completion, a construction draw request report including: (i) percentage of construction complete; and (ii) cumulative and proposed change orders.	Due monthly
<b>Monthly Leasing Reports</b>	<p>a. Until the date the Project has attained 100% Qualified Occupancy, on a lease-up status report on a building by building basis, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>b. If, after achieving 100% Qualified Occupancy, a Project fails to maintain occupancy levels above 90% for the previous quarter, the General Partner must provide a monthly occupancy report, including: (i) a certified rent roll showing current occupancy and the date that each unit was qualified, in the form specified or approved by the Special Limited Partner; and (ii) the number of applications under review and/or approved but not moved in.</p> <p>c. In addition to the qualified occupancy report, upon request of the Special Limited Partner or the General Partner shall provide a statement of income and expenses, an operating statement, an accounts receivable and accounts payable aging report, and a check register or a detailed general ledger.</p>	Due by the 10 <sup>th</sup> of each calendar month
<b>First Year Tenant Files</b>	<p>Upon initial lease-up of the Project, each unit's first year tenant file shall be provided electronically to the Special Limited Partner showing compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit Project, per the state allocation agency and within the meaning of Section 42(h) of the Code.</p> <p>Files will be sent by the Special Limited Partner to a third-party reviewer, unless the Special Limited Partner has approved file review by a third-party hired by the</p>	<p>-The greater of the first <b>10% or 5 files</b> are due as they become qualified -At <b>50%</b> qualified occupancy all available files are due -At 100% qualified occupancy, the balance of the files</p>

	Partnership. The Partnership shall budget and pay no more than \$30 per unit in order to hire an inspector.	are due within 30 days of the date of 100% qualified occupancy
<b>Quarterly Status Report and Financials</b>	<p>Commencing with the start of lease-up, a report showing financial and operational performance, and including:</p> <ol style="list-style-type: none"> <li>1. Signed quarterly status report – all questions answered</li> <li>2. Copies of Real Estate Tax Bill and evidence of payment</li> <li>3. A Rent Roll for each month in the quarter</li> <li>4. Income Statement (Excel format is preferred)</li> <li>5. Balance Sheet (Excel format is preferred)</li> <li>6. Operating and Replacement Reserve Bank Statements for all 3 months of the quarter</li> <li>7. Detailed explanation of any variances from the budget submitted to CREA</li> <li>8. Any other pertinent information regarding the Partnership and its activities as may be requested by the Special Limited Partner, including any correspondence between the Partnership and the IRS or State Agency, such as the State Designation or IRS Form(s) 8609)</li> </ol>	<p>Due within 30 days of the end of quarter</p> <p>Quarter 1: April 30  Quarter 2: July 31  Quarter 3: October 31  Quarter 4: January 31</p>
<b>Monthly Financial Statements *</b>	<p>A copy of the prior month’s financial operations of the property, including DSCR calculation before reserves.</p> <p><i>*Required only if Project did not maintain above 1.0 DSCR with replacement reserves for the previous quarter</i></p>	Due by the 20 of each month

<p><b>Audited Financials and Tax Returns (with K-1's) of Partnership</b></p>	<p>At the Partnership's expense:</p> <ol style="list-style-type: none"> <li>1. Copies of tax returns and reports</li> <li>2. Financial statements on a year over year comparable basis for the Partnership (consisting of a balance sheet as of the end of such calendar year, statements of income, and each Partner's equity and changes in financial position) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of the Accountant</li> <li>3. Cash flow statement</li> <li>4. Statement and reconciliation of each Partner's Capital Account</li> <li>5. Statement of the tax basis for the computation of the Tax Credits and depreciation deductions</li> <li>6. Depreciation schedules for current and all future years, and a depreciation worksheet, which shall serve to establish material allocations of assets for cost recovery purposes.</li> </ol> <p>Financial statements shall identify: (i) computation of Cash Flow verified by the Accountant; (ii) distributions from Cash Flow from operations during the calendar year; (iii) distributions from Cash Flow generated during a prior period which had been held as reserves; (iv) Net Cash from Sales and Refinancings; (v) costs reimbursed to the General Partner or affiliates; (vi) reserves; (vii) borrowed monies, loans and additional Capital Contributions; (viii) Affiliate transactions; (ix) transactions outside of the ordinary course of business with a description thereof; (x) a copy of the HUD REAC Score, if applicable, (xi) acceptable annual Tax Credit training compliance certifications regarding the Management Agent; and (xii) any other information reasonably requested by the Special Limited Partner.</p>	<p>Financial Statements and Tax Returns:</p> <p>Drafts – within 45 days after year end</p> <p>Final versions– within 90 days after year end</p> <p>Engagement Letter with CPA 30 days before year end</p>
<p><b>Audited Financials and Tax Returns of General Partner and Guarantor(s)</b></p>	<p>Current audited financial statements of the General Partner and each Guarantor entity, [personal financial statements may be unaudited] and, upon written request of the Special Limited Partner, updates to the same on a quarterly basis.</p>	<p>Within 120 days after year end</p>

<b>Operating Budget</b>	<p>Projected annual operating and capital improvements budget (in excel format), including:</p> <ul style="list-style-type: none"> <li>a. Account numbers for the following year;</li> <li>b. Separate breakout of projected rents used for rental income in the budget;</li> <li>c. Proposed repairs and capital improvements for the upcoming year;</li> <li>d. Proposed use of Replacement Reserves; and</li> <li>e. Any other information reasonably requested by the Special Limited Partner.</li> </ul>	Due at least 30 days prior to year end
<b>Annual Owner Certification, and Periodic Reports required by Project Lenders or Governmental Agencies</b>	<ul style="list-style-type: none"> <li>a. Certification by the General Partner to the Limited Partner, in the same scope and manner that it is required to certify to the applicable State Housing Finance Agency, that the Partnership is in compliance with all regulations and procedures relating to the operation of the Project as a qualified Tax Credit project within the meaning of Section 42(h) of the Code.</li> <li>b. A copy of any periodic financial or performance report (and supporting documents) provided by the Partnership to any federal, state, or local governmental agency or to any Partnership lender, or any compliance monitoring report provided to the State Housing Finance Agency, such as the State Designation and IRS Form(s) 8609.</li> </ul>	At the same time such certification or report is filed with the Governmental Agency or delivered to the Project Lender
<b>Permanent Insurance Policies</b>	See Appendix VI Insurance Requirements	

**APPENDIX XI**

**ENVIRONMENTAL CLEARANCE LETTER**

*[attached behind]*

April 1, 2021

CREA, LLC

Attn: Mr. Matthew Kesmodel

30 South Meridian Street, Suite 400

Indianapolis, Indiana 46204

**RE: DESKTOP REVIEW OF ENVIRONMENTAL DOCUMENT(S)**

**SHAKOPEE VILLAGE APARTMENTS**

**1428 4TH AVENUE EAST**

**SHAKOPEE, MINNESOTA 55379**

**PROJECT NO. RH21-1087**

At the request of CREA, LLC (CREA), Nova Group, GBC (Nova) has reviewed the following document(s) and information regarding the above-referenced Property:

- Phase I Environmental Site Assessment (ESA); Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development IV, LLC, Colliers Funding LLC and United States Department of Housing and Urban Development (HUD); Dated February 8, 2021.
- Reliance Certificate for the Phase I ESA dated February 8, 2021, as well as other reports; Reliance Parties / Users: "Shakopee Housing Partners, LP, CREA Shakopee Village Apartments, LLC, CREA MTE, and CREA SLP, LLC;" Dated March 25, 2021.
- Environmental Assessment Addendum; Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Shakopee Housing Partners, LP; Dated March 12, 2021.
- Technical Assistance Letter: Completion of Soil Vapor Assessment; Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota; Prepared by the Minnesota Pollution Control Agency (MPCA); Prepared for Shakopee Housing Partners LP; Dated January 20, 2021.
- Limited Phase II ESA Addendum - Second Round Soil Vapor Report; Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development IV, LLC; Dated December 17, 2020.
- Operations and Maintenance (O&M) Plan For Asbestos-Containing Materials (ACMs); Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development; Dated October 1, 2020.
- O&M Plan For Lead-Based Paint (LBP); Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development; Dated October 1, 2020.
- Mold and Moisture Plan; Shakopee Village Apartments, Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development; Dated October 1, 2020.



- Radon Operations, Maintenance and Monitoring Plan (OMMP); Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development; Dated October 1, 2020.
- Limited Phase II ESA Report; Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota; Prepared by Braun Intertec Corporation; Prepared for Vitus Development IV, LLC; Dated September 9, 2020.
- Results from Short-Term Radon in Air Testing; Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota 55379; Prepared by Braun Intertec Corporation; Prepared for Vitus Development IV, LLC; Dated July 31, 2020.
- Phase I ESA; Shakopee Village Apartments, 1428 4th Avenue East, Shakopee, Minnesota 55379; Prepared by Braun Intertec Corporation; Prepared for Vitus Development IV, LLC; Dated July 31, 2020.
- Limited Asbestos and Lead-Based Paint Testing Report; Shakopee Village Apartments, 1428, 1440 and 1450 4th Avenue East, Shakopee, Minnesota 55379; Prepared by Braun Intertec Corporation; Prepared for Vitus Development; Dated July 27, 2020.

The purpose of the review was to evaluate the environmental conditions reportedly present on the Property and to evaluate conformance of the Phase I ESA report (specifically) to the following scope of work and guidelines listed below.

- American Society for Testing and Materials (ASTM) Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process E 1527-13, or the most current ASTM standard.

Nova reviewed the referenced document(s) for thoroughness in addressing potential environmental concerns at the time of its writing, noting any issues that must be addressed or updated, or the need for additional investigations or remediation at the Property.

## **CURRENT PROPERTY DESCRIPTION**

At the time of the Property visit for the Phase I ESA dated February 8, 2021 (inspection completed on January 20, 2021), the Property comprised approximately 2.45-acres and was utilized for multi-family purposes. Property improvements included three two-story apartment buildings (no basements) that comprised approximately 21,896 square feet and contained 61 apartment units. Additional Property improvements included paved parking areas. Current Property improvements were reportedly constructed in 1972.

No evidence (i.e. use, storage or generation) of hazardous substance and/or petroleum storage was observed with the exception of minor quantities of cleaning supplies. No evidence of underground storage tanks (USTs), aboveground storage tanks (ASTs), or other potential environmental concerns were reported by the Consultant based on Property observations. The Consultant did observe *de minimis* surface staining in the parking areas that was likely due to minor leaks associated with parked vehicles.



Surrounding properties were identified as commercial / office buildings, townhouses, and a retail center. No visual evidence of adverse environmental conditions was observed in association with adjoining land; however, as discussed in detail below, a former dry cleaner located approximately 550 feet southwest of the Property is listed as an active Minnesota Site Remediation Section (SHWS) facility. Following completion of subsurface investigations within the limits of the Property (also discussed below), the referenced dry cleaner was determined not to represent a recognized environmental condition (REC) in connection with the Property.

Review of regulatory database information by the Consultant did not identify the Property on any regulatory databases; however, Nova's review of the regulatory database indicated that the Property is listed as a Facility Index System (FINDS) / Facility Registry Service (FRS), Voluntary Investigation and Cleanup (VIC) Program and Brownfields facility. Referenced regulatory database listings for the Property are likely associated with prior subsurface investigations due to a nearby SHWS facility, which is discussed in detail below. No regulatory listings identified within the approximate minimum search distance (AMSD) were considered to be RECs in connection with the Property; however, the following is a summary of an active SHWS facility located southwest of the Property.

- Hennen Cleaners historically operated approximately 550 feet southwest of the Property and is currently undergoing monitoring / remedial activities since 2019 due to the presence of tetrachloroethene/perchloroethene (PCE) that was reported in sub-slab soil vapor samples above the applicable assessment level. Due to the presence of the referenced dry cleaner in close proximity to the Property, subsurface investigations were completed at the Property in August 2020 and November 2020 under the guidance of the Minnesota Pollution Control Agency (MPCA). The August 2020 subsurface investigation included the completion of one temporary screened borehole to a depth of 40.0 feet below grade (fbg) and three soil vapor probes to a depth of 5.0 fbg. Groundwater was encountered at a depth of 34.0 fbg. Collected soil, groundwater and vapor samples were submitted to a laboratory for analysis of volatile organic compounds (VOCs). VOCs were not reported in soil or groundwater samples above laboratory quantitation limits. Select VOCs, including PCE, were reported in soil-vapor samples yet were reported at concentrations below applicable assessment levels. In the September 2020 Limited Phase II ESA, the Consultant recommended that the Property enroll in the VIC Program in an effort *"to obtain applicable assurances from the MPCA regarding the identified soil vapor impacts."* Once entered into the referenced program and following review of relevant documents, the MPCA recommended *"that a second seasonal soil vapor sampling event (heating season) shall be completed at the [Property]."* Three additional soil-gas probes were subsequently completed at the Property in November 2020. Analysis of collected samples resulted in the absence of VOCs above applicable assessment levels. The MPCA subsequently issued a letter dated January 20, 2021 which stated *"that based on the two seasonal rounds, the MPCA concurs that the buildings at the [Property] do not require vapor mitigation systems."*

Information included within the March 2021 Addendum Letter, "Lender No Association Determination" letters were issued by the MPCA in February 2021 for the US Department of Housing and Urban Development and Colliers Funding LLC. The referenced letters indicated that *"the act of providing financing does not and will not associate the [US Department of Housing and Urban Development and Colliers Funding LLC] with the Identified Release at the Site for the purpose of Minn. Stat. § 115B.03, subd. 3(4)."*

Review of historical resources by the Consultant indicated that the Property was undeveloped land or vacant utilized for agricultural purposes from at least 1905 until development of current improvements in 1972. The Property has since been utilized as an apartment complex. No historical uses of the Property or adjoining land were identified by the Consultant that were determined to be RECs in connection to the Property.

An independent search for title records, environmental liens (ELs) and activity use limitations (AULs) was not conducted as part of the current assessment. Based on interview information with the User and review of publicly available resources, no ELs or AULs were identified for the Property.

No evidence of RECs, controlled recognized environmental conditions (CRECs), or historical recognized environmental conditions (HRECs) was identified for the Property during the current Phase I ESA. In addition, a vapor concern was not identified for the Property.

An asbestos survey was completed at the Property in July 2020 that included the collection of 25 samples from the following materials: wall system components, sink undercoat, sheet flooring, floor mastic, cove base/mastic, epoxy flooring, ceiling tile, stair tread and ceramic tile. Materials sampled that were determined to be ACM included various types of sheet vinyl flooring (20-25% chrysotile). In addition, ceramic floor tile and grout were assumed to contain asbestos.

An ACM O&M Plan was prepared for the Property in October 2020 and appears to appropriately address management of potential / confirmed ACMs associated with the Property. The ACM O&M provides a summary of prior sampling efforts and identifies the locations and type of confirmed/assumed ACMs. At least one copy of this document should be maintained at the apartment complex at all times and updated following completion of sampling or abatement activities.

A lead-based paint (LBP) survey was completed at the Property in July 2020 that included the collection of 418 readings (includes calibration reading) from various interior components using an X-ray fluorescence (XRF) lead paint analyzer. As a result of the assessment, lead was not reported above the applicable assessment level.

A LBP O&M Plan was prepared for the Property in October 2020 and appears to appropriately address management of potential LBP associated with the Property. The LBP O&M Plan provides a brief summary of prior sampling efforts and indicates that no LBP has been identified at the Property with the exception of glazed bathtubs and glazed ceramic tiles. The Consultant concluded that the *“O&M Plan [was] prepared to provide guidance on LBP management as a precautionary measure.”* At least one copy of this document should be maintained at the Property at all times and updated following completion of sampling or abatement activities.



The Property was identified to be located in United States Environmental Protection Agency (USEPA) Radon Zone 1, where average predicted radon levels are greater than 4.0 picoCuries per liter (pCi/L). The USEPA action level for radon is 4.0 pCi/L. Radon sampling was most recently conducted at the Property in July 2020 that included the placement of 54 testing devices (included field blanks and duplicates) within ground floor apartment units, as well as select upper floor units. Following laboratory analysis, radon was reported at concentrations ranging from <0.3 pCi/L to 3.7 pCi/L, which is below the applicable action level of 4.0 pCi/L. A Radon Operations, Maintenance and Monitoring Plan (OMMP) was prepared for the Property in October 2020. The referenced OMMP recommends that radon testing should be completed every five years within all ground contact locations, as well as 10% of the upper-level units. The Radon OMMP also indicates that active or passive radon systems have not been installed at the Property. Based on information provided by the Consultant, a qualified radon mitigation contractor will inspect the Property on March 23, 2021 in an effort to provide a cost estimate for installation of radon mitigation systems.

Water / mold damage was not observed within interior portions of the Property buildings at the time of the January 2021. Regardless, a Mold and Moisture Plan (MMP) was prepared for the Property in October 2020 that provides guidance for the Property owner/mangers in addressing mold. The MMP appears to appropriately address management of moisture intrusion and mold damaged building materials (i.e. prevention, remediation, communication with residents and maintenance of documentation). At least one copy of this document should be maintained at the Property at all times.

The Property is reportedly not located within a flood zone and wetlands were not identified within the limits of the Property.



## ENVIRONMENTAL SITE ASSESSMENT REVIEW AND SUMMARY

The following table represents the required sections and content of a Phase I ESA performed in accordance with the current ASTM standard and CREA requirements. Issues that are not in conformance with that standard are indicated, and remedies are suggested in the review comments below the table.

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
<b>INTRODUCTION</b>		
Purpose	Present	
Detailed Scope of Services	Present	
Significant Assumptions	Present	
Limitations and Exceptions	Present	
Special Terms and Conditions	Adequate	
<b>PROPERTY DESCRIPTION</b>		
Location and Legal Description	Present	
Property and Vicinity General Characteristics	Present	
Number of Buildings on Property	Present	
Number of Stories of Building(s)	Present	
Basement(s)	Present	
Area/Square Footage of Building(s)	Present	
Date of Building(s) Construction	Present	
Property Activity Description	Present	
Descriptions of Structures, Roads, or Other Improvements	Present	
<b>CURRENT USES OF ADJOINING PROPERTIES</b>		
North	Present	
South	Present	
East	Present	
West	Present	
<b>USER PROVIDED INFORMATION</b>		
Title Records	Adequate	
Environmental Liens or Activity and Use Limitations	Adequate	
Specialized Knowledge	Present	
Regulatory Agency or Third Party - Known or Pending Action	Present	
Owner, Property Manager, and Occupant Information	Present	
Reason for Performing Phase I ESA	Present	
Other Information	Present	
List of Property Environmental Permits	N/A	
<b>REGULATORY RECORDS REVIEW</b>		
<b>FEDERAL Standard Environmental Record Sources</b>		
NPL / Delisted NPL	Adequate	
SEMS / SEMS ARCHIVE	Adequate	
RCRA CORRACTS	Adequate	
RCRA non-CORRACTS TSD	Adequate	
RCRA Generators	Adequate	
Institution Controls / Engineering Controls	Adequate	
ERNS	Adequate	
Property/Owner identified as a responsible party (RP) or potential RP?	No	
<b>STATE Standard Environmental Record Sources</b>		
State Hazardous Waste Sites	Adequate	
Landfill / Solid Waste Sites	Adequate	

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
Registered USTs	Adequate	
Leaking Registered USTs	Adequate	
Institution Controls / Engineering Controls	Adequate	
Voluntary Cleanup Sites	Adequate	
Brownfield Sites	Adequate	
Additional Environmental Record Sources	Adequate	
<b>PHYSICAL SETTING</b>		
Topography (USGS Quadrangle Map)	Present	
Groundwater - Shallow/Deep	Present	
Assumed Groundwater Flow Direction	Present	
Groundwater Use (beneath the Property)	Not Present	
Surficial Geology	Present	
Soils (USGS Soil Survey)	Adequate	
<b>PROPERTY, ADJOINING PROPERTY AND VICINITY HISTORICAL USE INFORMATION</b>		
Aerial Photos	Present	
Fire Insurance Maps	Present	
Property Tax Files	Present	
Land Title Records	Not Present	
Topographic Maps	Present	
Street Directories	Present	
Building Department Records	Adequate	
Zoning/Land Use Records	Adequate	
Prior Assessment Records	Present	
Historic Property Use	Present	
Year Property First Developed	Present	
Date Property First Occupied by Present Development	Present	
Historic Adjacent Property Use	Present	
<b>PROPERTY RECONNAISSANCE</b>		
<b>General Property Settings</b>		
Date of Inspection	Present	
Current Property Use	Present	
Current Vicinity Use	Present	
Geologic / Topographic Conditions	Present	
<b>Property Utilities</b>		
Source of Heating / Cooling Supply	Present	
Potable Water Supply	Present	
Sewage Disposal System	Present	
Septic Systems	Adequate	
<b>Exterior and Interior Observations</b>		
Hazardous Substances/Chemicals (includes solvent degreasers)	Present	
Petroleum Products	Present	
ASTs or USTs (Past or Present)	Present	
Heating Oil Use (Past or Present)	Adequate	
Drums	Present	
Unidentified Substance Containers	Present	
Strong, Pungent, or Noxious Odors	Present	
Pools of Liquid (standing surface water; or pools or sumps containing liquids)	Present	
PCBs (electrical or hydraulic equipment)	Present	

ASTM / CREA REQUIRED INFORMATION	INFORMATION DISCUSSED IN THE CURRENT ESA	REFERENCE NUMBER FOR COMMENTS
Stains/Corrosion (interior: floors, walls, or ceilings)	Present	
Stained Soil or Pavement (exterior)	Present	
Evidence of a Release (Past or Present)?	Yes, <i>de minimis</i>	
Stressed Vegetation	Present	
Drains and Sumps (interior)	Adequate	
Pits, Ponds and Lagoons (if present, must indicate if used in connection with waste disposal or waste treatment activities)	Present	
Wells (i.e. dry, irrigation, injection, abandoned, monitor or other wells)	Present	
Unnatural Fill Areas	Present	
Fill Noted in Geotechnical Borings	No	
Solid Waste	Present	
Wastewater (used in an industrial/manufacturing process or conveys sewage)	Present	
Storm Water	Adequate	
<b>INTERVIEWS</b>		
Owner	Not Present	
Key Site Manager	Present	
Occupants	Not Present	
State and/or Local Government Officials (i.e. Fire, Health or Building Depts.)	Present	
Others	Present	
<b>FINDINGS/OPINIONS</b>		
Risk Evaluation	N/A	
Known or Suspected Environmental Conditions	Present	
<b>CONCLUSIONS</b>		
Recognized Environmental Conditions (RECs)	Present	
Controlled Recognized Environmental Conditions (CRECs)	Present	
Historic Recognized Environmental Conditions (HRECs)	Present	
Vapor Encroachment Condition/Screening (VEC/VES)	Present	
Potential Environmental Concerns	Present	
<b>CREA SPECIFIC DOCUMENTATION</b>		
Reliance Letter	Present	
Environmental Insurance Certificate	Present	
Phase I Agreement for Services	Present	
<b>CREA REQUIRED NON-SCOPE ITEMS</b>		
<b>Asbestos Containing Materials (ACMs)</b>		
Information Regarding the Absence/Presence of Known or Suspect ACMs	Present	
Has an Asbestos Survey (with sampling) been conducted	Yes	
If Yes, is abatement required	Yes, if ACMs are disturbed	
<b>Lead-Based Paint (LBP)</b>		
Information Regarding the Absence/Presence of Known or Suspect LBP	Present	
Has an LBP Survey (with sampling) been conducted?	Yes	
If Yes, is abatement required?	No	
<b>OTHER</b>		
Flood Plain	Present	
Wetlands	Present	
Lead in Drinking Water	Adequate	
Moisture Intrusions / Mold Damage	Present	
Radon	Present	
Radon Mitigation System(s) previously installed?	No	

## SUMMARY

At the time of the Property visit for the current Phase I ESAs, each Property was utilized for multi-family purposes. Current Property improvements were reportedly developed in 1972.

Subsurface investigations were completed at the Property in 2020 in an effort to assess soil, groundwater and soil-vapor due to a historic dry cleaner located southwest of the Property. Following laboratory analysis, VOCs were not reported above applicable assessment levels.

No evidence of RECs, CRECs or HRECs was identified for each Property.

Prior asbestos surveys have been determined that select sheet flooring materials contain asbestos. Lead containing materials has been determined/assumed to be limited to glazed bathtubs/ceramic tiles. O&M Plans have been prepared for the Property for the management of ACMs, LBP, radon and mold.

Following completion of a radon survey in July 2020, radon was not reported at concentrations above 4.0 pCi/L; however, based on information provided by the Consultant, a qualified radon mitigation contractor will inspect the Property on March 23, 2021 in an effort to provide a cost estimate for installation of radon mitigation systems.

## CONCLUSIONS

Nova generally concurs with the Consultant's conclusions of the Phase I report. Nova notes the following:

- Based on information provided by the Consultant, a qualified radon mitigation contractor will inspect the Property on March 23, 2021 in an effort to provide a cost estimate for installation of radon mitigation systems. Following installation of the radon mitigation systems, radon testing should be completed to confirm that radon concentrations are below the applicable action level. Documentation and/or information regarding installation of radon mitigation systems (if any) and subsequent testing should be provided to CREA for review.
- Based on information provided by the Consultant, if suspect ACMs are encountered during renovation activities, which have not been previously sampled, such materials will be sampled by an appropriately licensed inspector prior to impact/disturbance and handled accordingly, or treated as ACMs. In addition, ACMs which are disturbed during renovation activities will reportedly be removed by a licensed abatement contractor, in accordance with applicable regulations. Any documentation confirming appropriate management / abatement of ACM should be provided to CREA.
- Nova has reviewed the referenced environmental report and based upon our review and professional opinion, the Phase I ESA and related documents conform with ASTM 1527-13 and the All Appropriate Inquiry (AAI) requirements.
- It should be understood that Nova is not an attorney, and this is not a legal interpretation of the scope of services agreement.



- The Phase I ESA report dated February 8, 2021 (with the Property visit on January 20, 2021 and the regulatory database dated January 30, 2021), and the review contained within, is considered valid until July 19, 2021. If closing has not occurred by this date, an updated ESA should be conducted in accordance with ASTM's Continued Viability of ESAs or a new Phase I ESA should be prepared in accordance with ASTM Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process E 1527-13.

## LIMITATIONS OF DESKTOP REVIEW

Nova has performed this report review and prepared this report in accordance with generally accepted consulting practices, and makes no other warranties, either expressed or implied, as to the character and nature of such services or product. Nova, its officers, and its employees have no present or contemplated interest in the Property. Nova's employment and compensation for preparing this report are not contingent upon the observations or conclusions. The information in this report is from sources deemed and assumed to be reliable; however, no representation or warranty is made as to the accuracy thereof.

This Desktop Review is prepared for the exclusive use of the following:

Shakopee Housing Partners, LP;

CREA Shakopee Village Apartments, LLC; and

CREA SLP, LLC.

This report and findings contained herein shall not, in whole or in part, be disseminated or conveyed to any other party, nor used by any other party, in whole or in part without prior written consent of Nova. However, Nova acknowledges and agrees that the report may be conveyed to and relied upon by CREA and the title insurer associated with the financing and/or property transfer of the Property.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennon Lewis".

Jennon Lewis  
Senior Project Manager

A handwritten signature in black ink, appearing to read "Marc Weyd".

Marc Weyd, P.G.  
Client Manager



**APPENDIX XII**

**DESIGNATED INDIVIDUAL ACKNOWLEDGEMENT**

The undersigned Designated Individual for the Project acknowledges and agrees to be bound by the terms of *Section 5.4(d)* of the Amended and Restated Agreement of Limited Partnership of Shakopee Housing Partners, LP dated as of July 8, 2021 (the "Partnership Agreement").

Capitalized terms used but not defined shall have the meanings set forth in the Partnership Agreement.

"DESIGNATED INDIVIDUAL"



\_\_\_\_\_  
ROGER HEIM

Effective as of: July 8, 2021

R

Documentation of  
Operating Budget  
and Utility Allowance



**Part G – Information on Mortgagor Entity**

Name of Entity

Petersburg East Housing Partners, LP

Type of Entity

- Individual       General Partnership       Joint Tenancy/Tenants in Common       Other (specify)
- Corporation       Limited Partnership       Trust

**List all Principals Comprising Mortgagor Entity:** provide name and title of each principal. Use extra sheets, if needed. If mortgagor is a:

- corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest.
- partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership.
- trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.

Name and Title

Petersburg East Housing Management, LLC

General Partner

Name and Title

Vitus Development IV, LLC

Sole Member and Manager of GP

Name and Title

Stephen R. Whyte, President of Vitus Development IV, LLC

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

**Part H – Owner Certification**

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name and Title

Stephen R. Whyte  
President of Vitus Development IV, LLC

Authorized Official's Signature

03/31/2021  
Date (mm/dd/yyyy)

**Part I – HUD/Lender Approval**

Addendum Number

HAP Contract Number  
VA36M000157

Exhibit Number

Digitally signed by: Carolyn H. Roberts  
 DN: CN = Carolyn H. Roberts email = carolyn.h.roberts@hud.gov, O = HUD OU = US GOVERNMENT  
 Date: 2021.03.11 17:20:16 -05'00'

Branch Chief/Lender Official Signature

Digitally signed by: Sharon Rowe Downs  
 DN: CN = Sharon Rowe Downs email = Sharon.Downs@hud.gov C = US O = U. S. Department of Housing and Urban Development OU = Multifamily  
 Date: 2021.03.16 13:57:58 -04'00'

Director, Housing Management Division Signature

Date (mm/dd/yyyy)



Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is authorized under Section 207 of the National Housing Act. The information is necessary for the Department to ensure that project owners are not overcharging their tenants and to ensure that the rent levels approved by the Department are not exceeded. The Department uses this information to enforce rent regulations which otherwise would be difficult because there would be no clear record of the rents and charges that the Department had approved. In addition, the Department needs to periodically collect information regarding project principals, so unauthorized participation by previously excluded or otherwise undesirable owners can be detected. This information is required to obtain benefits. HUD may disclose certain information to Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.

## Instructions

All project owners must submit the form HUD-92458 when requesting an adjustment to project rents. HUD establishes and approves rental charges and utility allowances on the Form. The owner is responsible for notifying tenants of the approved rents.

**General.** For projects with fully-insured or HUD-held mortgages, the owner/agent submits this Form to the HUD Field Office. For projects with coinsured mortgages, the owner/agent submits this Form to the lender.

**Part A.** If the monthly rent potential you are proposing is less than or equal to the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete all of Part A according to the instructions below. If the monthly rent potential you are requesting exceeds the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete only Columns 1 and 2 according to the instructions below. Show your proposed rents and monthly rent potential in the cover letter transmitting your rent increase request.

**Column 1.** Show each type of unit for which rents will vary. Show the number of bedrooms and bathrooms and other features that cause rents to vary (e.g., 2 BDM, 1 B, DA, KETTE, vs 2 BDM, 2B, DR, K). Use the following symbols:

BDM	- Bedroom	LR	- Living Room
B	- Bath	DR	- Dining Room
K	- Kitchen	DA	- Dining Alcove
KETTE	- Kitchenette		

**Column 2.** Show the number of units for each unit type. Include non-revenue producing units.

**Column 3.** For unsubsidized projects, show the rent you intend to charge for each unit type. For subsidized projects, show the contract rent (as defined in HUD Handbook 4350.3) for each unit type.

**Column 4.** For each line, multiply the contract rent in Column 3 by the number of units in Column 4. Add monthly contract rent potentials for each unit size to compute the total monthly contract rent potential. Multiply the monthly total by 12 to compute the annual contract rent potential.

**Columns 5 and 6.** Complete the Columns only if the project has a subsidy contract with HUD and some utilities are not included in the rent. In Column 5, show the utility allowance for each unit type. Compute the gross rent for each unit type by adding the contract rent in Column 3 and the utility allowance in Column 5. Show this amount in Column 6.

**Columns 7 and 8.** Complete these Columns only if the project is receiving Section 236 Interest Reduction Payments. In Column 7, show the market rent for each unit type. In Column 8, for each line multiply the market rent in Column 7 by the number of units in Column 2. Add the monthly market rent potentials for each unit size to compute the total monthly market rent potential. Multiply the monthly total by 12 to compute the annual market rent potential.

**Parts B, C, D and E.** Complete these Parts according to the instructions on the Rent Schedule.

**Part F.** Do not complete this Part. The HUD Field Office/lender will complete this Part.

**Parts G and H.** Complete these Parts according to the instructions on the Rent Schedule.

**Part I.** Do not complete this Part. The HUD Field Office/lender will complete this part.



**Part G – Information on Mortgagor Entity**

Name of Entity

Petersburg East Housing Partners, LP

Type of Entity

- Individual       General Partnership       Joint Tenancy/Tenants in Common       Other (specify)
- Corporation       Limited Partnership       Trust

**List all Principals Comprising Mortgagor Entity:** provide name and title of each principal. Use extra sheets, if needed. If mortgagor is a:

- corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest.
- partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership.
- trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.

Name and Title

Petersburg East Housing Management, LLC

General Partner

Name and Title

Vitus Development IV, LLC

Sole Member and Manager of GP

Name and Title

Stephen R. Whyte, President of Vitus Development IV, LLC

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

**Part H – Owner Certification**

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name and Title

Stephen R. Whyte  
President of Vitus Development IV, LLC

Authorized Official's Signature

03/31/2021  
Date (mm/dd/yyyy)

**Part I – HUD/Lender Approval**

Addendum Number

HAP Contract Number  
VA36L000113

Exhibit Number

Digitally signed by: Carolyn H. Roberts  
 DN: CN = Carolyn H. Roberts email = carolyn.h.roberts@hud.gov, O = HUD OU = US GOVERNMENT  
 Date: 2021.03.11 17:23:04 -05'00'

Branch Chief/Lender Official Signature

Signed by: Sharon Rowe Downs  
 DN: CN = Sharon Rowe Downs email = Sharon.Downs@hud.gov C = US O = U.S. Department of Housing and Urban Development OU = Multifamily  
 Date (mm/dd/yyyy)

Director, Housing Management Division Signature

Date (mm/dd/yyyy)



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**Part A.** If the monthly rent potential you are proposing is less than or equal to the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete all of Part A according to the instructions below. If the monthly rent potential you are requesting exceeds the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete only Columns 1 and 2 according to the instructions below. Show your proposed rents and monthly rent potential in the cover letter transmitting your rent increase request.

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**Column 4.** For each line, multiply the contract rent in Column 3 by the number of units in Column 4. Add monthly contract rent potentials for each unit size to compute the total monthly contract rent potential. Multiply the monthly total by 12 to compute the annual contract rent potential.

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**Part I.** Do not complete this Part. The HUD Field Office/lender will complete this part.



**Multifamily Management Services, LLC-Petersburg East I & II**  
**Detail Budget summary for year 2021**

**GL Details**

Description	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	2021 Annual
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**Revenue**

**Gross Potential**

5120 - Gross Potential	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	2,175,600
<b>Gross Potential</b>	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	181,300	2,175,600

**Vacancy**

5220 - Apartments - vacancies	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-108,780
<b>Vacancy</b>	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-9,065	-108,780

**Net Rental Revenue**

<b>Net Rental Revenue</b>	172,235	172,235	172,235	172,235	172,235	172,235	172,235	172,235	172,235	172,235	172,235	172,235	2,066,820
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**Other Revenue**

5422 - Late Fee Charges	440	440	440	440	440	440	440	440	440	440	440	440	5,280
5910 - Laundry and Vending	300	300	300	300	300	300	300	300	300	300	300	300	3,600
5990 - Miscellaneous Revenue	100	100	100	100	100	100	100	100	100	100	100	100	1,200
<b>Other Revenue</b>	840	840	840	840	840	840	840	840	840	840	840	840	10,080

**Total Revenue**

<b>Total Revenue</b>	173,075	173,075	173,075	173,075	173,075	173,075	173,075	173,075	173,075	173,075	173,075	173,075	2,076,900
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**Operating Expenses**

**Payroll/Benefits**

6310 - Office Salaries	3,462	3,462	3,462	3,462	5,192	3,462	3,462	3,462	3,462	5,192	3,462	3,462	45,004
6330 - Manager Payroll	5,000	5,000	5,000	5,000	7,500	5,000	5,000	5,000	5,000	7,500	5,000	5,000	65,000





**Multifamily Management Services, LLC-Petersburg East I & II**  
**Detail Budget summary for year 2021**

6720 - Property and Liability Insurance (Hazard)	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	9,800	117,600
<b>Taxes/Insurance</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>19,800</b>	<b>237,600</b>
<b>Net Operating Income</b>	<b>80,196</b>	<b>80,242</b>	<b>80,301</b>	<b>78,822</b>	<b>70,922</b>	<b>80,323</b>	<b>80,324</b>	<b>80,323</b>	<b>78,821</b>	<b>70,919</b>	<b>80,320</b>	<b>80,319</b>	<b>941,832</b>	
<b>Financial/Master Leases</b>														
6890 - Financial Other	490	490	490	490	490	490	490	490	490	490	490	490	490	5,880
<b>Financial/Master Leases</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>490</b>	<b>5,880</b>
<b>Cash Flow (Deficit) Before Amortization &amp;</b>	<b>79,706</b>	<b>79,752</b>	<b>79,811</b>	<b>78,332</b>	<b>70,432</b>	<b>79,833</b>	<b>79,834</b>	<b>79,833</b>	<b>78,331</b>	<b>70,429</b>	<b>79,830</b>	<b>79,829</b>	<b>935,952</b>	
<b>Asset</b>														
1320 - Replacement Reserve	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	4,900	58,800
<b>Asset</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>4,900</b>	<b>58,800</b>
<b>Cash Flow (Deficit) After Capital Expenditures</b>	<b>74,806</b>	<b>74,852</b>	<b>74,911</b>	<b>73,432</b>	<b>65,532</b>	<b>74,933</b>	<b>74,934</b>	<b>74,933</b>	<b>73,431</b>	<b>65,529</b>	<b>74,930</b>	<b>74,929</b>	<b>877,152</b>	

**Multifamily Management Services, LLC  
Petersburg East I & II  
Payroll Summary  
For the Budget Year Beginning January 2021**

	Jan-2021	Feb-2021	Mar-2021	Apr-2021	May-2021	Jun-2021	Jul-2021	Aug-2021	Sep-2021	Oct-2021	Nov-2021	Dec-2021	Total	Allocation	Allocation	
Number of	2	2	2	2	3	2	2	2	2	2	3	2	2	26		
Salary	8,462	8,462	8,462	8,462	12,692	8,462	8,462	8,462	8,462	12,692	8,462	8,462	110,004	100.00	110,004	
Hourly	8,800	8,800	8,800	8,800	13,200	8,800	8,800	8,800	8,800	13,200	8,800	8,800	114,400	100.00	114,400	
Overtime	0	0	0	0	0	0	0	0	0	0	0	0	0	100.00	0	
Bonus	0	0	0	0	0	0	0	0	0	0	0	0	0	100.00	0	
Leasing	0	0	0	0	0	0	0	0	0	0	0	0	0	100.00	0	
Renewal	0	0	0	0	0	0	0	0	0	0	0	0	0	100.00	0	
Benefits	2,829	2,829	2,829	2,829	2,829	2,829	2,829	2,829	2,829	2,829	2,829	2,829	33,948	100.00	33,948	
Payroll	1,670	1,622	1,564	1,542	2,310	1,540	1,540	1,540	1,540	2,310	1,540	1,540	20,258	100.00	20,258	
<b>Payroll total</b>	<b>21,761</b>	<b>21,712</b>	<b>21,654</b>	<b>21,632</b>	<b>31,031</b>	<b>21,631</b>	<b>21,631</b>	<b>21,631</b>	<b>21,631</b>	<b>31,031</b>	<b>21,631</b>	<b>21,631</b>	<b>278,610</b>	<b>100.00</b>	<b>278,610</b>	

**Employees**

Employee name / Count	Job position	Total	Salary	Hourly	Overtime	Bonus	Leasing	Renewal	Benefits	Payroll	Allocation	Allocation
1.00	Assisstant	60,149	45,004	0	0	0	0	0	11,316	3,829	100.00	60,149
1.00	Maintenance	65,989	0	49,920	0	0	0	0	11,316	4,753	100.00	65,989
1.00	Maintenance	38,736	0	35,360	0	0	0	0	0	3,376	100.00	38,736
1.00	Porter/Grounds	31,910	0	29,120	0	0	0	0	0	2,790	100.00	31,910
1.00	Property Manager	81,823	65,000	0	0	0	0	0	11,316	5,507	100.00	81,823
<b>Total</b>		<b>278,607</b>	<b>110,004</b>	<b>114,400</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>33,948</b>	<b>20,255</b>		<b>278,607</b>

S

Supportive Housing  
Certification

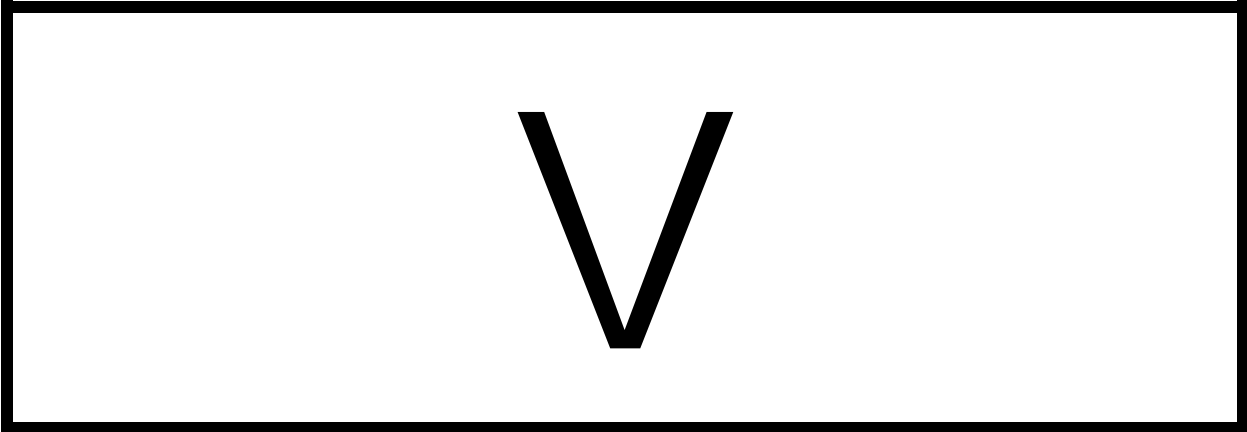
T

Funding Documentation

U

Documentation to  
Request Exception to  
Restriction-Pools with  
Little/No Increase in Rent  
Burdened Population





V

Nonprofit or LHA Purchase  
Option or Right of First  
Refusal



W

Internet Safety Plan and  
Resident Information  
Form

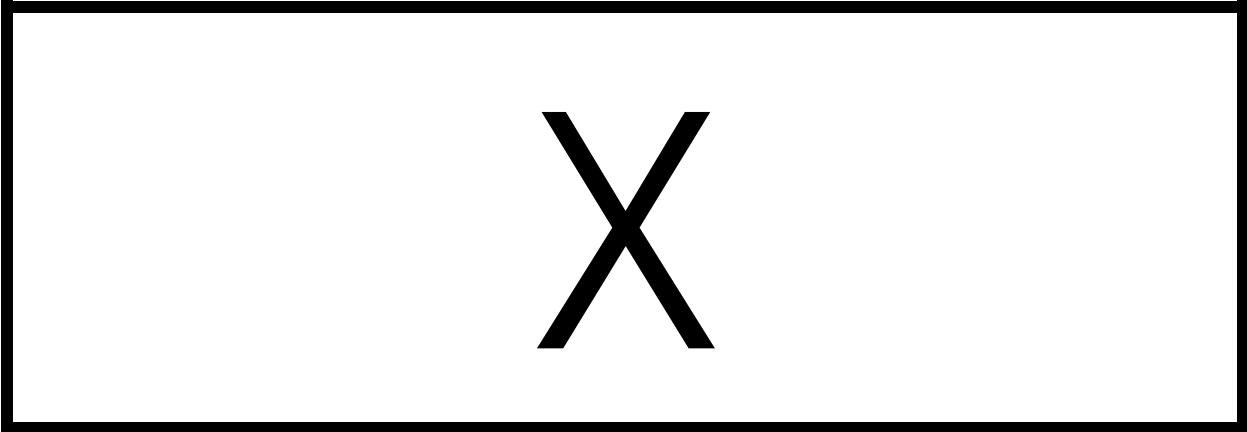


## **Internet Safety Procedures**

Internet safety is top priority when browsing the web. It is important to safeguard them from dangers such as obscenity, malwares, scams, phishing, identify theft, cyberbullying etc. ... The Internet opens up the world for the users. Please see the below safety tips:

- Keep your confidential data offline.
- Check a website's reliability.
- Use a strong password.
- Use two-factor authentication.
- Avoid suspicious online links.
- Keep your computer updated.
- Beware of free Wi-Fi and downloads.
- Double check online information.

If you have any questions or concerns contact Management.



X

# Marketing Plan

For units meeting accessibility requirements of HUD section

504



## **Petersburg East**

### **Marketing Plan**

#### **A. Housing Market Area**

The housing market area, defined as that geographic region from which it is likely that renters would be drawn for the Petersburg East, is composed of a primary market area Petersburg City, VA.

#### **B. Targeting**

Petersburg East will be targeting households such as; White, Asian, Hispanic or Latino, Persons with Disabilities, American Indian and Alaskan Native and Native Hawaiian or other Pacific Islanders.

#### **C. Marketing**

- **Advertising** The predominant newspaper of general circulation for all of Petersburg City is Richmond Times Detach. Once marketing begins, an ad will be placed every week. In addition to Richmond Times Detach we have place the property on [www.virginiahousingsearch.com](http://www.virginiahousingsearch.com).
- **Brochures** A brochure will be utilized in the marketing of Petersburg East. Included in the brochure will be the following information: rent, proximity to transportation, shopping, senior centers, amenities, services, floor and site plans. Brochures will be distributed to senior centers and community organizations throughout the Housing Market Area, including those reaching minority households.



- Sign Appropriate signage will be used on and off site to market the property and to indicate that the complex is an Equal Housing Opportunity.
- Fair Housing Poster This will be displayed in the rental office on a permanent basis.
- Network Contacts – Resources for Independent Living, Inc. located 4009 Fitzhugh Ave., Suite 100 Richmond, VA 23230; Phone: (804) 353-6503 Fax: (804) 358-5606E-Mail: [info@ril-va.org](mailto:info@ril-va.org). This organization will be contacted on an ongoing basis to assist with filling vacant units.

#### **D. Held Vacant for 60 Days**

Units will be held vacant for 60 days during which ongoing marketing will be documented. Each time a vacancy occurs in 60 days timeframe we will submit evidence of marketing to VHDA's Compliance Officer and request approval to rent the unit to an income-qualified household not a part of the Target Population.

If no vacant unit of comparable size is available at that time, the Target Population prospective tenant should be placed on our waiting list and placed in a unit, when the first available vacant comparably sized unit becomes available to move the non-Targeted Population tenant.



Note to all applicants/respondents: This form was developed with Nuance, the official HUD software for the creation of HUD forms. HUD has made available instructions for downloading a free installation of a Nuance reader that allows the user to fill-in and save this form in Nuance. Please see <http://portal.hud.gov/hudportal/documents/huddoc?id=nuancereaderinstall.pdf> for the instructions. Using Nuance software is the only means of completing this form.

**Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing**

**U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity**

OMB Approval No. 2529-0013  
(exp.1/31/2021)

<b>1a. Project Name &amp; Address (including City, County, State &amp; Zip Code)</b>	<b>1b. Project Contract Number</b>	<b>1c. No. of Units</b>
	<b>1d. Census Tract</b>	
	<b>1e. Housing/Expanded Housing Market Area</b>	

**1f. Managing Agent Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address**

**1g. Application/Owner/Developer Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address**

**1h. Entity Responsible for Marketing (check all that apply)**

Owner      Agent      Other (specify)

Position, Name (if known), Address ( including City, County, State & Zip Code), Telephone Number & Email Address

**1i. To whom should approval and other correspondence concerning this AFHMP be sent? Indicate Name, Address (including City, State & Zip Code), Telephone Number & E-Mail Address.**

**2a. Affirmative Fair Housing Marketing Plan**

Plan Type      Date of the First Approved AFHMP:

Reason(s) for current update:

**2b. HUD-Approved Occupancy of the Project (check all that apply)**

Elderly      Family      Mixed (Elderly/Disabled)      Disabled

**2c. Date of Initial Occupancy**

**2d. Advertising Start Date**

Advertising must begin *at least* 90 days prior to initial or renewed occupancy for new construction and substantial rehabilitation projects.

Date advertising began or will begin

**For existing projects, select below the reason advertising will be used:**

To fill existing unit vacancies	
To place applicants on a waiting list	(which currently has _____ individuals)
To reopen a closed waiting list	(which currently has _____ individuals)

---

**3a. Demographics of Project and Housing Market Area**

Complete and submit Worksheet 1.

---

**3b. Targeted Marketing Activity**

Based on your completed Worksheet 1, indicate which demographic group(s) in the housing market area is/are *least* likely to apply for the housing without special outreach efforts. (check all that apply)

White	American Indian or Alaska Native	Asian	Black or African American
Native Hawaiian or Other Pacific Islander		Hispanic or Latino	Persons with Disabilities
Families with Children	Other ethnic group, religion, etc. (specify)		

---

**4a. Residency Preference**

Is the owner requesting a residency preference? If yes, complete questions 1 through 5.

If no, proceed to Block 4b.

(1) Type

(2) Is the residency preference area:

The same as the AFHMP housing/expanded housing market area as identified in Block 1e?

The same as the residency preference area of the local PHA in whose jurisdiction the project is located?

(3) What is the geographic area for the residency preference?

(4) What is the reason for having a residency preference?

(5) How do you plan to periodically evaluate your residency preference to ensure that it is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a)?

Complete and submit Worksheet 2 when requesting a residency preference (see also 24 CFR 5.655(c)(1)) for residency preference requirements. The requirements in 24 CFR 5.655(c)(1) will be used by HUD as guidelines for evaluating residency preferences consistent with the applicable HUD program requirements. See also HUD Occupancy Handbook (4350.3) Chapter 4, Section 4.6 for additional guidance on preferences.

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**4b. Proposed Marketing Activities: Community Contacts**

Complete and submit Worksheet 3 to describe your use of community contacts to market the project to those least likely to apply.

**4c. Proposed Marketing Activities: Methods of Advertising**

Complete and submit Worksheet 4 to describe your proposed methods of advertising that will be used to market to those least likely to apply. Attach copies of advertisements, radio and television scripts, Internet advertisements, websites, and brochures, etc.

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**5a. Fair Housing Poster**

The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Check below all locations where the Poster will be displayed.

Rental Office                  Real Estate Office                  Model Unit                  Other (specify)

---

**5b. Affirmative Fair Housing Marketing Plan**

The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check below all locations where the AFHMP will be made available.

Rental Office                  Real Estate Office                  Model Unit                  Other (specify)

---

**5c. Project Site Sign**

Project Site Signs, if any, must display in a conspicuous position the HUD approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Check below all locations where the Project Site Sign will be displayed. Please submit photos of Project signs.

Rental Office                  Real Estate Office                  Model Unit                  Entrance to Project                  Other (specify)

The size of the Project Site Sign will be                  x  
The Equal Housing Opportunity logo or slogan or statement will be                  x

---

**6. Evaluation of Marketing Activities**

Explain the evaluation process you will use to determine whether your marketing activities have been successful in attracting individuals least likely to apply, how often you will make this determination, and how you will make decisions about future marketing based on the evaluation process.

**7a. Marketing Staff**

What staff positions are/will be responsible for affirmative marketing?

---

**7b. Staff Training and Assessment: AFHMP**

- (1) Has staff been trained on the AFHMP?
  - (2) Has staff been instructed in writing and orally on non-discrimination and fair housing policies as required by 24 CFR 200.620(c)?
  - (3) If yes, who provides instruction on the AFHMP and Fair Housing Act, and how frequently?
  
  - (4) Do you periodically assess staff skills on the use of the AFHMP and the application of the Fair Housing Act?
  - (5) If yes, how and how often?
- 

**7c. Tenant Selection Training/Staff**

- (1) Has staff been trained on tenant selection in accordance with the project's occupancy policy, including any residency preferences?
  
  - (2) What staff positions are/will be responsible for tenant selection?
- 

**7d. Staff Instruction/Training:**

Describe AFHM/Fair Housing Act staff training, already provided or to be provided, to whom it was/will be provided, content of training, and the dates of past and anticipated training. Please include copies of any AFHM/Fair Housing staff training materials.

**8. Additional Considerations** Is there anything else you would like to tell us about your AFHMP to help ensure that your program is marketed to those least likely to apply for housing in your project? Please attach additional sheets, as needed.

**9. Review and Update**

By signing this form, the applicant/respondent agrees to implement its AFHMP, and to review and update its AFHMP in accordance with the instructions to item 9 of this form in order to ensure continued compliance with HUD's Affirmative Fair Housing Marketing Regulations (see 24 CFR Part 200, Subpart M). I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (See 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

*Chanell Mines 1/6/2021*  
 Signature of person submitting this Plan & Date of Submission (mm/dd/yyyy)

Chanell Mines  
 Name (type or print)

Title & Name of Company

For HUD-Office of Housing Use Only		For HUD-Office of Fair Housing and Equal Opportunity Use Only	
Reviewing Official:		Approval	Disapproval
Signature & Date (mm/dd/yyyy)		Signature & Date (mm/dd/yyyy)	
Name (type or print)		Name (type or print)	
Title		Title	

Public reporting burden for this collection of information is estimated to average six (6) hours per initial response, and four (4) hours for updated plans, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

**Purpose of Form:** All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (see 24 CFR 200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR 200.625, and in accordance with the requirements in 24 CFR 200.620. The purpose of this AFHMP is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning should be part of all new construction, substantial rehabilitation, and existing project marketing and advertising activities.

An AFHM program, as specified in this Plan, shall be in effect for each multifamily project throughout the life of the mortgage (24 CFR 200.620(a)). The AFHMP, once approved by HUD, must be made available for public inspection at the sales or rental offices of the respondent (24 CFR 200.625) and may not be revised without HUD approval. This form contains no questions of a confidential nature.

**Applicability:** The form and worksheets must be completed and submitted by all FHA subsidized and unsubsidized multifamily housing program applicants.

#### **INSTRUCTIONS:**

**Send completed form and worksheets to your local HUD Office, Attention: Director, Office of Housing**

#### **Part 1: Applicant/Respondent and Project**

**Identification.** Blocks 1a, 1b, 1c, 1g, 1h, and 1i are self-explanatory.

Block 1d- Respondents may obtain the Census tract number from the U.S. Census Bureau (<http://factfinder2.census.gov/main.html>) when completing Worksheet One.

Block 1e- Respondents should identify both the housing market area and the expanded housing market area for their multifamily housing projects. Use abbreviations if necessary. A **housing market area** is the area from which a multifamily housing project owner/agent may reasonably expect to draw a substantial number of its tenants. This could be a county or Metropolitan Division. The U.S. Census Bureau provides a range of levels to draw from.

An **expanded housing market area** is a larger geographic area, such as a Metropolitan Division or a Metropolitan Statistical Area, which may provide additional demographic diversity in terms of race, color, national origin, religion, sex, familial status, or disability.

Block 1f- The applicant should complete this block only if a Managing Agent (the agent cannot be the applicant) is implementing the AFHMP.

#### **Part 2: Type of AFHMP**

Block 2a- Respondents should indicate the status of the AFHMP, i.e., initial or updated, as well as the date of the first approved AFHMP. Respondents should also provide the reason (s) for the current update, whether the update is based on the five-year review or due to significant changes in project or local demographics (See instructions for Part 9).

Block 2b- Respondents should identify all groups HUD has approved for occupancy in the subject project, in accordance with the contract, grant, etc.

Block 2c- Respondents should specify the date the project was/will be first occupied.

Block 2d- For new construction and substantial rehabilitation projects, advertising must begin at least 90 days prior to initial occupancy. In the case of existing projects, respondents should indicate whether the advertising will be used to fill existing vacancies, to place individuals on the project's waiting list, or to re-open a closed waiting list. Please indicate how many people are on the waiting list when advertising begins.

### **Part 3 Demographics and Marketing Area.**

"Least likely to apply" means that there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Block 3a - Using Worksheet 1, the respondent should indicate the demographic composition of the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area. The applicable housing market area and expanded housing market area should be indicated in Block 1e. Compare groups within rows/across columns on Worksheet 1 to identify any under-represented group(s) relative to the surrounding housing market area and expanded housing market area, i.e., those group(s) "least likely to apply" for the housing without targeted outreach and marketing. If there is a particular group or subgroup with members of a protected class that has an identifiable presence in the housing market area, but is not included in Worksheet 1, please specify under "Other."

Respondents should use the most current demographic data from the U.S. Census or another official source such as a local government planning office. Please indicate the source of your data in Part 8 of this form.

Block 3b - Using the information from the completed Worksheet 1, respondents should identify the demographic group(s) least likely to apply for the housing without special outreach efforts by checking all that apply.

### **Part 4 - Marketing Program and Residency Preference (if any).**

Block 4a - A residency preference is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). Respondents should indicate whether a residency preference is being utilized, and if so, respondents should specify if it is new, revised, or continuing. If a respondent wishes to utilize a residency preference, it must state the preference area (and provide a map delineating the precise area) and state the reason for having such a preference. The respondent must ensure that the preference is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a) (see 24 CFR 5.655(c)(1)).

Respondents should use Worksheet 2 to show how the percentage of the eligible population living or working in the residency preference area compares to that of residents of the project, project applicant data, census tract, housing market area, and expanded housing market area. The percentages would be the same as shown on completed Worksheet 1.

Block 4b - Using Worksheet 3, respondents should describe their use of community contacts to help market the project to those least likely to apply. This table should include the name of a contact person, his/her address, telephone number, previous experience working with the target population(s), the approximate date contact was/will be initiated, and the specific role the community contact will play in assisting with affirmative fair housing marketing or outreach.

Block 4c - Using Worksheet 4, respondents should describe their proposed method(s) of advertising to market to those least likely to apply. This table should identify each media option, the reason for choosing this media, and the language of the advertisement. Alternative format(s) that will be used to reach persons with disabilities, and logo(s) that will appear on the various materials (as well as their size) should be described.

**Please attach a copy of the advertising or marketing material.**

### **Part 5 – Availability of the Fair Housing Poster, AFHMP, and Project Site Sign.**

Block 5a - The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Respondents should indicate all locations where the Fair Housing Poster will be displayed.

Block 5b -The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check all of the locations where the AFHMP will be available.

Block 5c -The Project Site Sign must display in a conspicuous position the HUD-approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Respondents should indicate where the Project Site Sign will be displayed, as well as the size of the Sign and the size of the logo, slogan, or statement. **Please submit photographs of project site signs.**

## **Part 6 - Evaluation of Marketing Activities.**

Respondents should explain the evaluation process to be used to determine if they have been successful in attracting those individuals identified as least likely to apply. Respondents should also explain how they will make decisions about future marketing activities based on the evaluations.

## **Part 7- Marketing Staff and Training.**

Block 7a - Respondents should identify staff positions that are/will be responsible for affirmative marketing.

Block 7b - Respondents should indicate whether staff has been trained on the AFHMP and Fair Housing Act.

Please indicate who provides the training and how frequently. In addition, respondents should specify whether they periodically assess staff members' skills in using the AFHMP and in applying the Fair Housing Act. They should state how often they assess employee skills and how they conduct the assessment.

Block 7c - Respondents should indicate whether staff has been trained on tenant selection in accordance with the project's occupancy policy, including residency preferences (if any). Respondents should also identify those staff positions that are/will be responsible for tenant selection.

Block 7d - Respondents should include copies of any written materials related to staff training, and identify the dates of past and anticipated training.

## **Part 8 - Additional Considerations.**

Respondents should describe their efforts not previously mentioned that were/are planned to attract those individuals least likely to apply for the subject housing.

## **Part 9 - Review and Update.**

By signing the respondent assumes responsibility for implementing the AFHMP. Respondents must review their AFHMP every five years or when the local Community Development jurisdiction's Consolidated Plan is updated, or when there are significant changes in the demographics of the project or the local housing market area. When reviewing the plan, the respondent should consider the current demographics of the housing market area to determine if there have been demographic changes in the population in terms of race, color, national origin, religion, sex, familial status, or disability. The respondent will then determine if the population least likely to apply for the housing is still the population identified in the AFHMP, whether the advertising and publicity cited in the current AFHMP are still appropriate, or whether advertising sources should be modified or expanded. Even if the demographics of the housing market area have not changed, the respondent should determine if the outreach currently being performed is reaching those it is intended to reach as measured by project occupancy and applicant data. If not, the AFHMP should be updated. The revised AFHMP must be submitted to HUD for approval. HUD may review whether the affirmative marketing is actually being performed in accordance with the AFHMP. If based on their review, respondents determine the AFHMP does not need to be revised, they should maintain a file documenting what was reviewed, what was found as a result of the review, and why no changes were required. HUD may review this documentation.

## **Notification of Intent to Begin Marketing.**

No later than 90 days prior to the initiation of rental marketing activities, the respondent must submit notification of intent to begin marketing. The notification is required by the AFHMP Compliance Regulations (24 CFR 108.15). The Notification is submitted to the Office of Housing in the HUD Office servicing the locality in which the proposed housing will be located. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the monitoring office will review any previously approved plan and may schedule a pre-occupancy conference. Such conference will be held prior to initiation of sales/rental marketing activities. At this conference, the previously approved AFHMP will be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification prior to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

OMB approval of the AFHMP includes approval of this notification procedure as part of the AFHMP. The burden hours for such notification are included in the total designated for this AFHMP form.

**Worksheet 1: Determining Demographic Groups Least Likely to Apply for Housing Opportunities  
(See AFHMP, Block 3b)**

In the respective columns below, indicate the percentage of demographic groups among the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area (See instructions to Block 1e). If you are a new construction or substantial rehabilitation project and do not have residents or project applicant data, only report information for census tract, housing market area, and expanded market area. The purpose of this information is to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability. If there is significant under-representation of any demographic group among project residents or current applicants in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. Please indicate under-represented groups in Block 3b of the AFHMP. **Please attach maps showing both the housing market area and the expanded housing market area.**

<b>Demographic Characteristics</b>	<b>Project's Residents</b>	<b>Project's Applicant Data</b>	<b>Census Tract</b>	<b>Housing Market Area</b>	<b>Expanded Housing Market Area</b>
% White					
% Black or African American					
% Hispanic or Latino					
% Asian					
% American Indian or Alaskan Native					
% Native Hawaiian or Pacific Islander					
% Persons with Disabilities					
% Families with Children under the age of 18					
Other (specify)					

Worksheet 2: Establishing a Residency Preference Area (See AFHMP, Block 4a)

Complete this Worksheet if you wish to continue, revise, or add a residency preference, which is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). If a residency preference is utilized, the preference must be in accordance with the non-discrimination and equal opportunity requirements contained in 24 CFR 5.105(a). This Worksheet will help show how the percentage of the population in the residency preference area compares to the demographics of the project's residents, applicant data, census tract, housing market area, and expanded housing market area. **Please attach a map clearly delineating the residency preference geographical area.**

Demographic Characteristics	Project's Residents (as determined in Worksheet 1)	Project's Applicant Data (as determined in Worksheet 1)	Census Tract (as determined in Worksheet 1)	Housing Market Area (as determined in Worksheet 1)	Expanded Housing Market Area (as determined in Worksheet 1)	Residency Preference Area (if applicable)
% White						
% Black or African American						
% Hispanic or Latino						
% Asian						
% American Indian or Alaskan Native						
% Native Hawaiian or Pacific Islander						
% Persons with Disabilities						
% Families with Children under the age of 18						
Other (specify)						

*NO RESIDENCY PREFERENCE*



Worksheet 3: Proposed Marketing Activities –Community Contacts (See AFHMP, Block 4b)

For each targeted marketing population designated as least likely to apply in Block 3b, identify at least one community contact organization you will use to facilitate outreach to the particular population group. This could be a social service agency, religious body, advocacy group, community center, etc. State the names of contact persons, their addresses, their telephone numbers, their previous experience working with the target population, the approximate date contact was/will be initiated, and the specific role they will play in assisting with the affirmative fair housing marketing. Please attach additional pages if necessary.

Targeted Population(s)	Community Contact(s), including required information noted above.

Worksheet 4: Proposed Marketing Activities – Methods of Advertising (See AFHMP, Block 4c)

Complete the following table by identifying your targeted marketing population(s), as indicated in Block 3b, as well as the methods of advertising that will be used to market to that population. For each targeted population, state the means of advertising that you will use as applicable to that group and the reason for choosing this media. In each block, in addition to specifying the media that will be used (e.g., name of newspaper, television station, website, location of bulletin board, etc.) state any language(s) in which the material will be provided, identify any alternative format(s) to be used (e.g. Braille, large print, etc.), and specify the logo(s) (as well as size) that will appear on the various materials. Attach additional pages, if necessary, for further explanation. Please attach a copy of the advertising or marketing material.

Targeted Population(s)→ Methods of Advertising ↓	Targeted Population:	Targeted Population:	Targeted Population:
<b>Newspaper(s)</b>			
<b>Radio Station(s)</b>			
<b>TV Station(s)</b>			
<b>Electronic Media</b>			
<b>Bulletin Boards</b>			
<b>Brochures, Notices, Flyers</b>			
<b>Other (specify)</b>			

## **RICHMOND TIMES DISPATCH**

- White
- English language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **TIDEWATER HISPANIC NEWS**

- Hispanic
- Spanish language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **[www.asianfortunenews.com](http://www.asianfortunenews.com)**

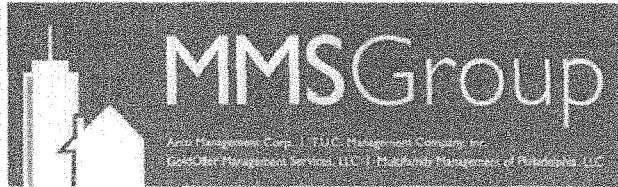
- Asian
- English and Chinese language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **NATIVENEWSONLINE.NET**

- American Indian or Alaskan Native
- English language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **FLYERS**

- All Target Groups
- The English, Spanish and Chinese Languages will be used.
- The size of logo will be 1"x1



## COMMUNITY CONTACT LETTER

Date \_\_\_\_\_

Subject: Affordable Housing Open for Applications

To Whom It May Concern,

We wish to inform you that Petersburg East Apartments I (an affordable housing community) located at 110 Croatia Drive, Petersburg, VA 23803 is now accepting applications to be added to the waiting list.

Qualifications will be based on Section 8 Federal Guidelines. Interested persons may obtain an application by calling or by writing or visiting:

**Petersburg East Apartments I  
110 Croatia Drive  
Petersburg, VA 23803  
804-733-3657**

Application can be obtained between the hours of 10:00am and 4:00pm, Monday thru Friday. Completed application can be returned by regular mail or in person.

Sincerely,

Property Manager



DPO5 PETERSBURG COUNTY

Petersburg city, Virginia

**Label**

SEX AND AGE

Total population	31,362	*****	31,362	(X)
Male	14,294	±152	45.6%	±0.5
Female	17,068	±152	54.4%	±0.5
Sex ratio (males per 100 females)	83.7	±1.6	(X)	(X)
Under 5 years	2,283	±101	7.3%	±0.3
5 to 9 years	1,928	±307	6.1%	±1.0
10 to 14 years	1,513	±280	4.8%	±0.9
15 to 19 years	1,534	±115	4.9%	±0.4
20 to 24 years	2,368	±107	7.6%	±0.3
25 to 34 years	4,999	±141	15.9%	±0.4
35 to 44 years	3,211	±91	10.2%	±0.3
45 to 54 years	4,008	±67	12.8%	±0.2
55 to 59 years	2,013	±224	6.4%	±0.7
60 to 64 years	2,264	±222	7.2%	±0.7
65 to 74 years	3,006	±44	9.6%	±0.1
75 to 84 years	1,576	±150	5.0%	±0.5
85 years and over	659	±145	2.1%	±0.5
Median age (years)	38.1	±0.9	(X)	(X)
Under 18 years	6,702	±82	21.4%	±0.3
16 years and over	25,358	±131	80.9%	±0.4
18 years and over	24,660	±82	78.6%	±0.3
21 years and over	23,658	±220	75.4%	±0.7
62 years and over	6,428	±187	20.5%	±0.6
65 years and over	5,241	±63	16.7%	±0.2
18 years and over	24,660	±82	24,660	(X)
Male	10,907	±93	44.2%	±0.2
Female	13,753	±34	55.8%	±0.2
Sex ratio (males per 100 females)	79.3	±0.8	(X)	(X)
65 years and over	5,241	±63	5,241	(X)
Male	1,971	±22	37.6%	±0.5
Female	3,270	±57	62.4%	±0.5
Sex ratio (males per 100 females)	60.3	±1.2	(X)	(X)

RACE

Total population	31,362	*****	31,362	(X)
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One race	30,641	±177	97.7%	±0.6
Two or more races	721	±177	2.3%	±0.6
One race	30,641	±177	97.7%	±0.6
White	5,473	±277	17.5%	±0.9
Black or African American	24,044	±255	76.7%	±0.8
American Indian and Alaska Native	74	±43	0.2%	±0.1
Cherokee tribal grouping	0	±26	0.0%	±0.1
Chippewa tribal grouping	0	±26	0.0%	±0.1
Navajo tribal grouping	0	±26	0.0%	±0.1
Sioux tribal grouping	0	±26	0.0%	±0.1
Asian	292	±73	0.9%	±0.2
Asian Indian	69	±44	0.2%	±0.1
Chinese	0	±26	0.0%	±0.1
Filipino	39	±42	0.1%	±0.1
Japanese	46	±48	0.1%	±0.2
Korean	64	±54	0.2%	±0.2
Vietnamese	0	±26	0.0%	±0.1
Other Asian	74	±61	0.2%	±0.2
Native Hawaiian and Other Pacific Islander	26	±31	0.1%	±0.1
Native Hawaiian	4	±7	0.0%	±0.1
Guamanian or Chamorro	3	±6	0.0%	±0.1
Samoan	19	±31	0.1%	±0.1
Other Pacific Islander	0	±26	0.0%	±0.1
Some other race	732	±336	2.3%	±1.1
Two or more races	721	±177	2.3%	±0.6
White and Black or African American	429	±167	1.4%	±0.5
White and American Indian and Alaska Native	21	±22	0.1%	±0.1
White and Asian	102	±81	0.3%	±0.3
Black or African American and American Indian and Alaska Native	45	±44	0.1%	±0.1
Race alone or in combination with one or more				
Total population	31,362	*****	31,362	(X)
White	6,097	±340	19.4%	±1.1
Black or African American	24,577	±202	78.4%	±0.6
American Indian and Alaska Native	185	±80	0.6%	±0.3
Asian	443	±18	1.4%	±0.1
Native Hawaiian and Other Pacific Islander	82	±82	0.3%	±0.3
Some other race	764	±332	2.4%	±1.1

## HISPANIC OR LATINO AND RACE

Total population	31,362	*****	31,362	(X)
Hispanic or Latino (of any race)	1,536	*****	4.9%	*****
Mexican	973	±243	3.1%	±0.8
Puerto Rican	368	±210	1.2%	±0.7
Cuban	0	±26	0.0%	±0.1
Other Hispanic or Latino	195	±101	0.6%	±0.3
Not Hispanic or Latino	29,826	*****	95.1%	*****
White alone	4,726	±26	15.1%	±0.1
Black or African American alone	23,926	±235	76.3%	±0.7
American Indian and Alaska Native alone	74	±43	0.2%	±0.1
Asian alone	281	±68	0.9%	±0.2
Native Hawaiian and Other Pacific Islander alone	26	±31	0.1%	±0.1
Some other race alone	118	±165	0.4%	±0.5
Two or more races	675	±172	2.2%	±0.5
Two races including Some other race	9	±15	0.0%	±0.1
Two races excluding Some other race	666	±176	2.1%	±0.6
Total housing units	16,367	±90	(X)	(X)

## CITIZEN, VOTING AGE POPULATION

Citizen, 18 and over population	24,051	±205	24,051	(X)
Male	10,565	±147	43.9%	±0.3
Female	13,486	±103	56.1%	±0.3

DPO5 PETERSBURG COUNTY

Census Tract 8101, Petersburg city, Virginia

**Label**

**SEX AND AGE**

Total population	2,716	±450	2,716	(X)
Male	1,291	±245	47.5%	±4.6
Female	1,425	±266	52.5%	±4.6
Sex ratio (males per 100 females)	90.6	±16.6	(X)	(X)
Under 5 years	233	±128	8.6%	±4.5
5 to 9 years	160	±117	5.9%	±4.0
10 to 14 years	116	±97	4.3%	±3.3
15 to 19 years	232	±142	8.5%	±4.8
20 to 24 years	365	±143	13.4%	±5.0
25 to 34 years	384	±197	14.1%	±6.4
35 to 44 years	354	±156	13.0%	±5.6
45 to 54 years	258	±100	9.5%	±3.5
55 to 59 years	157	±87	5.8%	±3.0
60 to 64 years	203	±74	7.5%	±3.2
65 to 74 years	171	±75	6.3%	±3.1
75 to 84 years	61	±45	2.2%	±1.7
85 years and over	22	±22	0.8%	±0.8
Median age (years)	32.3	±6.2	(X)	(X)
Under 18 years	646	±247	23.8%	±6.6
16 years and over	2,194	±365	80.8%	±7.6
18 years and over	2,070	±305	76.2%	±6.6
21 years and over	1,766	±276	65.0%	±7.0
62 years and over	360	±105	13.3%	±4.6
65 years and over	254	±91	9.4%	±3.7
18 years and over	2,070	±305	2,070	(X)
Male	947	±211	45.7%	±5.8
Female	1,123	±167	54.3%	±5.8
Sex ratio (males per 100 females)	84.3	±19.6	(X)	(X)
65 years and over	254	±91	254	(X)
Male	95	±60	37.4%	±17.7
Female	159	±67	62.6%	±17.7
Sex ratio (males per 100 females)	59.7	±46.7	(X)	(X)

**RACE**

Total population	2,716	±450	2,716	(X)
One race	2,673	±460	98.4%	±1.8



Two or more races	43	±48	1.6%	±1.8
One race	2,673	±460	98.4%	±1.8
White	132	±79	4.9%	±3.0
Black or African American	2,449	±483	90.2%	±6.2
American Indian and Alaska Native	0	±12	0.0%	±1.3
Cherokee tribal grouping	0	±12	0.0%	±1.3
Chippewa tribal grouping	0	±12	0.0%	±1.3
Navajo tribal grouping	0	±12	0.0%	±1.3
Sioux tribal grouping	0	±12	0.0%	±1.3
Asian	0	±12	0.0%	±1.3
Asian Indian	0	±12	0.0%	±1.3
Chinese	0	±12	0.0%	±1.3
Filipino	0	±12	0.0%	±1.3
Japanese	0	±12	0.0%	±1.3
Korean	0	±12	0.0%	±1.3
Vietnamese	0	±12	0.0%	±1.3
Other Asian	0	±12	0.0%	±1.3
Native Hawaiian and Other Pacific Islander	0	±12	0.0%	±1.3
Native Hawaiian	0	±12	0.0%	±1.3
Guamanian or Chamorro	0	±12	0.0%	±1.3
Samoan	0	±12	0.0%	±1.3
Other Pacific Islander	0	±12	0.0%	±1.3
Some other race	92	±133	3.4%	±5.0
Two or more races	43	±48	1.6%	±1.8
White and Black or African American	0	±12	0.0%	±1.3
White and American Indian and Alaska Native	8	±12	0.3%	±0.5
White and Asian	13	±25	0.5%	±0.9
Black or African American and American Indian and AI	0	±12	0.0%	±1.3
Race alone or in combination with one or more other races				
Total population	2,716	±450	2,716	(X)
White	153	±80	5.6%	±3.1
Black or African American	2,471	±474	91.0%	±5.7
American Indian and Alaska Native	8	±12	0.3%	±0.5
Asian	13	±25	0.5%	±0.9
Native Hawaiian and Other Pacific Islander	0	±12	0.0%	±1.3
Some other race	114	±145	4.2%	±5.4
HISPANIC OR LATINO AND RACE				
Total population	2,716	±450	2,716	(X)
Hispanic or Latino (of any race)	114	±145	4.2%	±5.4

Mexican	8	±12	0.3%	±0.5
Puerto Rican	106	±142	3.9%	±5.3
Cuban	0	±12	0.0%	±1.3
Other Hispanic or Latino	0	±12	0.0%	±1.3
Not Hispanic or Latino	2,602	±475	95.8%	±5.4
White alone	132	±79	4.9%	±3.0
Black or African American alone	2,449	±483	90.2%	±6.2
American Indian and Alaska Native alone	0	±12	0.0%	±1.3
Asian alone	0	±12	0.0%	±1.3
Native Hawaiian and Other Pacific Islander alone	0	±12	0.0%	±1.3
Some other race alone	0	±12	0.0%	±1.3
Two or more races	21	±28	0.8%	±1.0
Two races including Some other race	0	±12	0.0%	±1.3
Two races excluding Some other race, and Three or	21	±28	0.8%	±1.0
Total housing units	1,280	±66	(X)	(X)
CITIZEN, VOTING AGE POPULATION				
Citizen, 18 and over population	2,070	±305	2,070	(X)
Male	947	±211	45.7%	±5.8
Female	1,123	±167	54.3%	±5.8

DPO2 PETERSBURG COUNTY

Petersburg city, Virginia

**Label**

HOUSEHOLDS BY TYPE

Total households	13,165	±351	13,165	(X)
Married-couple family	2,842	±321	21.6%	±2.3
With own children of the householder under 18 years	790	±201	6.0%	±1.5
Cohabiting couple household	862	±194	6.5%	±1.5
With own children of the householder under 18 years	185	±90	1.4%	±0.7
Male householder, no spouse/partner present	3,069	±269	23.3%	±2.0
With own children of the householder under 18 years	196	±93	1.5%	±0.7
Householder living alone	2,284	±245	17.3%	±1.8
65 years and over	562	±123	4.3%	±0.9
Female householder, no spouse/partner present	6,392	±362	48.6%	±2.4
With own children of the householder under 18 years	1,310	±286	10.0%	±2.2
Householder living alone	3,306	±322	25.1%	±2.2
65 years and over	1,209	±176	9.2%	±1.3
Households with one or more people under 18 years	3,182	±333	24.2%	±2.5
Households with one or more people 65 years and over	3,906	±235	29.7%	±1.8
Average household size	2.33	±0.06	(X)	(X)
Average family size	3.28	±0.14	(X)	(X)

RELATIONSHIP

Population in households	30,673	±200	30,673	(X)
Householder	13,165	±351	42.9%	±1.1
Spouse	2,795	±324	9.1%	±1.0
Unmarried partner	911	±201	3.0%	±0.7
Child	8,795	±543	28.7%	±1.8
Other relatives	3,532	±571	11.5%	±1.9
Other nonrelatives	1,475	±361	4.8%	±1.2

MARITAL STATUS

Males 15 years and over	11,379	±102	11,379	(X)
Never married	5,927	±353	52.1%	±3.1
Now married, except separated	3,262	±359	28.7%	±3.1
Separated	481	±170	4.2%	±1.5
Widowed	319	±101	2.8%	±0.9
Divorced	1,390	±185	12.2%	±1.6
Females 15 years and over	14,259	±77	14,259	(X)
Never married	6,308	±265	44.2%	±1.9
Now married, except separated	3,222	±345	22.6%	±2.4
Separated	807	±198	5.7%	±1.4
Widowed	1,860	±214	13.0%	±1.5
Divorced	2,062	±231	14.5%	±1.6

FERTILITY

Number of women 15 to 50 years old who had a birth in the past 12 months	332	±133	332	(X)
Unmarried women (widowed, divorced, and never married)	198	±99	59.6%	±21.0
Per 1,000 unmarried women	35	±17	(X)	(X)
Per 1,000 women 15 to 50 years old	43	±17	(X)	(X)
Per 1,000 women 15 to 19 years old	30	±45	(X)	(X)
Per 1,000 women 20 to 34 years old	52	±26	(X)	(X)
Per 1,000 women 35 to 50 years old	36	±31	(X)	(X)

GRANDPARENTS

Number of grandparents living with own grandchildren under 18 years	803	±187	803	(X)
Grandparents responsible for grandchildren	382	±121	47.6%	±11.2
Years responsible for grandchildren				

Less than 1 year	118	±91	14.7%	±10.6
1 or 2 years	62	±48	7.7%	±6.1
3 or 4 years	55	±61	6.8%	±7.2
5 or more years	147	±79	18.3%	±9.4
Number of grandparents responsible for own grandchildren under 18 years	382	±121	382	(X)
Who are female	251	±95	65.7%	±12.6
Who are married	194	±111	50.8%	±19.7
<b>SCHOOL ENROLLMENT</b>				
Population 3 years and over enrolled in school	6,480	±358	6,480	(X)
Nursery school, preschool	339	±141	5.2%	±2.0
Kindergarten	419	±152	6.5%	±2.4
Elementary school (grades 1-8)	2,529	±193	39.0%	±3.1
High school (grades 9-12)	1,482	±188	22.9%	±2.8
College or graduate school	1,711	±260	26.4%	±3.0
<b>EDUCATIONAL ATTAINMENT</b>				
Population 25 years and over	21,736	±141	21,736	(X)
Less than 9th grade	1,407	±254	6.5%	±1.2
9th to 12th grade, no diploma	2,326	±310	10.7%	±1.4
High school graduate (includes equivalency)	7,768	±612	35.7%	±2.8
Some college, no degree	4,680	±454	21.5%	±2.1
Associate's degree	1,252	±220	5.8%	±1.0
Bachelor's degree	2,531	±313	11.6%	±1.5
Graduate or professional degree	1,772	±247	8.2%	±1.1
High school graduate or higher	18,003	±414	82.8%	±1.8
Bachelor's degree or higher	4,303	±419	19.8%	±1.9
<b>VETERAN STATUS</b>				
Civilian population 18 years and over	24,174	±181	24,174	(X)
Civilian veterans	2,491	±257	10.3%	±1.1
<b>DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED POPULATION</b>				
Total Civilian Noninstitutionalized Population	30,438	±229	30,438	(X)
<b>With a disability</b>	<b>6,826</b>	<b>±512</b>	<b>22.4%</b>	<b>±1.7</b>
Under 18 years	6,666	±95	6,666	(X)
With a disability	357	±120	5.4%	±1.8
18 to 64 years	18,768	±189	18,768	(X)
With a disability	4,019	±442	21.4%	±2.3
65 years and over	5,004	±123	5,004	(X)
With a disability	2,450	±226	49.0%	±4.5
<b>RESIDENCE 1 YEAR AGO</b>				
Population 1 year and over	30,990	±124	30,990	(X)
Same house	23,777	±783	76.7%	±2.5
Different house in the U.S.	6,982	±776	22.5%	±2.5
Same county	3,029	±653	9.8%	±2.1
Different county	3,953	±612	12.8%	±2.0
Same state	3,013	±572	9.7%	±1.8
Different state	940	±249	3.0%	±0.8
Abroad	231	±116	0.7%	±0.4
<b>PLACE OF BIRTH</b>				
Total population	31,362	*****	31,362	(X)
Native	30,152	±350	96.1%	±1.1
Born in United States	29,717	±394	94.8%	±1.3
State of residence	21,965	±706	70.0%	±2.3
Different state	7,752	±663	24.7%	±2.1
Born in Puerto Rico, U.S. Island areas, or born abroad to American parent	435	±172	1.4%	±0.5
Foreign born	1,210	±350	3.9%	±1.1

U.S. CITIZENSHIP STATUS				
Foreign-born population	1,210	±350	1,210	(X)
Naturalized U.S. citizen	472	±162	39.0%	±10.5
Not a U.S. citizen	738	±271	61.0%	±10.5
YEAR OF ENTRY				
Population born outside the United States	1,645	±394	1,645	(X)
Native	435	±172	435	(X)
Entered 2010 or later	24	±32	5.5%	±7.3
Entered before 2010	411	±167	94.5%	±7.3
Foreign born	1,210	±350	1,210	(X)
Entered 2010 or later	211	±133	17.4%	±8.6
Entered before 2010	999	±269	82.6%	±8.6
WORLD REGION OF BIRTH OF FOREIGN BORN				
Foreign-born population, excluding population born at sea	1,210	±350	1,210	(X)
Europe	142	±55	11.7%	±4.9
Asia	255	±129	21.1%	±9.4
Africa	227	±176	18.8%	±12.5
Oceania	0	±26	0.0%	±2.8
Latin America	576	±227	47.6%	±12.9
Northern America	10	±16	0.8%	±1.4
LANGUAGE SPOKEN AT HOME				
Population 5 years and over	29,079	±101	29,079	(X)
English only	27,070	±296	93.1%	±1.1
Language other than English	2,009	±323	6.9%	±1.1
Speak English less than "very well"	585	±150	2.0%	±0.5
Spanish	1,366	±196	4.7%	±0.7
Speak English less than "very well"	448	±115	1.5%	±0.4
Other Indo-European languages	227	±79	0.8%	±0.3
Speak English less than "very well"	55	±34	0.2%	±0.1
Asian and Pacific Islander languages	139	±70	0.5%	±0.2
Speak English less than "very well"	44	±40	0.2%	±0.1
Other languages	277	±205	1.0%	±0.7
Speak English less than "very well"	38	±59	0.1%	±0.2
ANCESTRY				
Total population	31,362	*****	31,362	(X)
American	1,094	±287	3.5%	±0.9
Arab	50	±72	0.2%	±0.2
Czech	22	±23	0.1%	±0.1
Danish	0	±26	0.0%	±0.1
Dutch	79	±48	0.3%	±0.2
English	855	±272	2.7%	±0.9
French (except Basque)	126	±74	0.4%	±0.2
French Canadian	28	±22	0.1%	±0.1
German	779	±148	2.5%	±0.5
Greek	99	±136	0.3%	±0.4
Hungarian	10	±15	0.0%	±0.1
Irish	602	±169	1.9%	±0.5
Italian	218	±95	0.7%	±0.3
Lithuanian	0	±26	0.0%	±0.1
Norwegian	73	±53	0.2%	±0.2
Polish	202	±116	0.6%	±0.4
Portuguese	24	±36	0.1%	±0.1
Russian	86	±71	0.3%	±0.2
Scotch-Irish	75	±49	0.2%	±0.2

Scottish	157	±86	0.5%	±0.3
Slovak	11	±18	0.0%	±0.1
Subsaharan African	851	±363	2.7%	±1.2
Swedish	76	±74	0.2%	±0.2
Swiss	0	±26	0.0%	±0.1
Ukrainian	6	±11	0.0%	±0.1
Welsh	41	±38	0.1%	±0.1
West Indian (excluding Hispanic origin groups)	192	±99	0.6%	±0.3
COMPUTERS AND INTERNET USE				
Total households	13,165	±351	13,165	(X)
With a computer	10,676	±346	81.1%	±2.1
With a broadband Internet subscription	9,089	±409	69.0%	±2.5

## DPO2 CENSUS TRACT 1.01

## Label

## Census Tract 1.01, Petersburg County

## HOUSEHOLDS BY TYPE

Total households	992	±110	992	(X)
Married-couple family	154	±71	15.5%	±7.6
With own children of the householder under 18 years	0	±12	0.0%	±3.5
Cohabiting couple household	53	±38	5.3%	±3.8
With own children of the householder under 18 years	20	±33	2.0%	±3.2
Male householder, no spouse/partner present	153	±71	15.4%	±7.0
With own children of the householder under 18 years	18	±22	1.8%	±2.3
Householder living alone	128	±65	12.9%	±6.3
65 years and over	80	±56	8.1%	±5.5
Female householder, no spouse/partner present	632	±127	63.7%	±9.5
With own children of the householder under 18 years	217	±103	21.9%	±9.5
Householder living alone	219	±83	22.1%	±8.4
65 years and over	75	±48	7.6%	±4.8
Households with one or more people under 18 years	319	±107	32.2%	±10.1
Households with one or more people 65 years and over	254	±92	25.6%	±8.9
Average household size	2.73	±0.46	(X)	(X)
Average family size	3.56	±0.66	(X)	(X)
RELATIONSHIP				
Population in households	2,711	±450	2,711	(X)
Householder	992	±110	36.6%	±6.0
Spouse	149	±65	5.5%	±2.7
Unmarried partner	68	±44	2.5%	±1.7
Child	1,050	±327	38.7%	±9.0
Other relatives	386	±301	14.2%	±10.0
Other nonrelatives	66	±70	2.4%	±2.5
MARITAL STATUS				
Males 15 years and over	1,008	±234	1,008	(X)
Never married	705	±227	69.9%	±9.4
Now married, except separated	154	±71	15.3%	±7.1
Separated	11	±17	1.1%	±1.7
Widowed	29	±26	2.9%	±2.6
Divorced	109	±59	10.8%	±6.6
Females 15 years and over	1,199	±194	1,199	(X)
Never married	669	±165	55.8%	±7.9
Now married, except separated	201	±82	16.8%	±7.9
Separated	129	±84	10.8%	±6.2
Widowed	87	±44	7.3%	±3.7
Divorced	113	±76	9.4%	±6.3
FERTILITY				
Number of women 15 to 50 years old who had a birth in the p9		±16	9	(X)
Unmarried women (widowed, divorced, and never married)	9	±16	100.0%	±100.0
Per 1,000 unmarried women	15	±27	(X)	(X)

Per 1,000 women 15 to 50 years old	11	±21	(X)	(X)
Per 1,000 women 15 to 19 years old	0	±292	(X)	(X)
Per 1,000 women 20 to 34 years old	26	±47	(X)	(X)
Per 1,000 women 35 to 50 years old	0	±93	(X)	(X)
<b>GRANDPARENTS</b>				
Number of grandparents living with own grandchildren under 33	33	±31	33	(X)
Grandparents responsible for grandchildren	33	±31	100.0%	±53.6
Years responsible for grandchildren				
Less than 1 year	0	±12	0.0%	±53.6
1 or 2 years	11	±18	33.3%	±45.6
3 or 4 years	0	±12	0.0%	±53.6
5 or more years	22	±26	66.7%	±45.6
Number of grandparents responsible for own grandchildren u	33	±31	33	(X)
Who are female	33	±31	100.0%	±53.6
Who are married	11	±18	33.3%	±45.6
<b>SCHOOL ENROLLMENT</b>				
Population 3 years and over enrolled in school	577	±244	577	(X)
Nursery school, preschool	77	±78	13.3%	±13.0
Kindergarten	61	±54	10.6%	±8.7
Elementary school (grades 1-8)	159	±120	27.6%	±19.5
High school (grades 9-12)	154	±135	26.7%	±18.2
College or graduate school	126	±85	21.8%	±11.3
<b>EDUCATIONAL ATTAINMENT</b>				
Population 25 years and over	1,610	±265	1,610	(X)
Less than 9th grade	98	±64	6.1%	±3.6
9th to 12th grade, no diploma	274	±106	17.0%	±7.0
High school graduate (includes equivalency)	745	±238	46.3%	±10.2
Some college, no degree	338	±155	21.0%	±8.9
Associate's degree	51	±37	3.2%	±2.4
Bachelor's degree	99	±86	6.1%	±5.6
Graduate or professional degree	5	±10	0.3%	±0.6
High school graduate or higher	1,238	±250	76.9%	±6.8
Bachelor's degree or higher	104	±87	6.5%	±5.8
<b>VETERAN STATUS</b>				
Civilian population 18 years and over	2,070	±305	2,070	(X)
Civilian veterans	117	±53	5.7%	±2.9
<b>DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED PC</b>				
Total Civilian Noninstitutionalized Population	2,716	±450	2,716	(X)
With a disability	847	±328	31.2%	±10.9
Under 18 years	646	±247	646	(X)
With a disability	33	±42	5.1%	±6.3
18 to 64 years	1,816	±314	1,816	(X)
With a disability	642	±335	35.4%	±15.2
65 years and over	254	±91	254	(X)
With a disability	172	±80	67.7%	±15.8



## RESIDENCE 1 YEAR AGO

Population 1 year and over	2,671	±444	2,671	(X)
Same house	2,290	±476	85.7%	±9.6
Different house in the U.S.	381	±253	14.3%	±9.6
Same county	246	±207	9.2%	±7.7
Different county	135	±139	5.1%	±5.4
Same state	135	±139	5.1%	±5.4
Different state	0	±12	0.0%	±1.3
Abroad	0	±12	0.0%	±1.3
<b>PLACE OF BIRTH</b>				
Total population	2,716	±450	2,716	(X)
Native	2,695	±452	99.2%	±0.8
Born in United States	2,638	±471	97.1%	±2.3
State of residence	2,279	±500	83.9%	±7.5
Different state	359	±161	13.2%	±6.4
Born in Puerto Rico, U.S. Island areas, or born abroad to U.S. citizens	57	±52	2.1%	±2.1
Foreign born	21	±20	0.8%	±0.8
<b>U.S. CITIZENSHIP STATUS</b>				
Foreign-born population	21	±20	21	(X)
Naturalized U.S. citizen	21	±20	100.0%	±67.2
Not a U.S. citizen	0	±12	0.0%	±67.2
<b>YEAR OF ENTRY</b>				
Population born outside the United States	78	±56	78	(X)
Native	57	±52	57	(X)
Entered 2010 or later	0	±12	0.0%	±40.8
Entered before 2010	57	±52	100.0%	±40.8
Foreign born	21	±20	21	(X)
Entered 2010 or later	0	±12	0.0%	±67.2
Entered before 2010	21	±20	100.0%	±67.2
<b>WORLD REGION OF BIRTH OF FOREIGN BORN</b>				
Foreign-born population, excluding population born at sea	21	±20	21	(X)
Europe	13	±15	61.9%	±50.3
Asia	0	±12	0.0%	±67.2
Africa	0	±12	0.0%	±67.2
Oceania	0	±12	0.0%	±67.2
Latin America	8	±12	38.1%	±50.3
Northern America	0	±12	0.0%	±67.2
<b>LANGUAGE SPOKEN AT HOME</b>				
Population 5 years and over	2,483	±427	2,483	(X)
English only	2,363	±451	95.2%	±5.5
Language other than English	120	±132	4.8%	±5.5
Speak English less than "very well"	36	±34	1.4%	±1.4
Spanish	113	±131	4.6%	±5.4
Speak English less than "very well"	29	±32	1.2%	±1.4
Other Indo-European languages	7	±11	0.3%	±0.5

Speak English less than "very well"	7	±11	0.3%	±0.5
Asian and Pacific Islander languages	0	±12	0.0%	±1.4
Speak English less than "very well"	0	±12	0.0%	±1.4
Other languages	0	±12	0.0%	±1.4
Speak English less than "very well"	0	±12	0.0%	±1.4
ANCESTRY				
Total population	2,716	±450	2,716	(X)
American	29	±35	1.1%	±1.3
Arab	0	±12	0.0%	±1.3
Czech	0	±12	0.0%	±1.3
Danish	0	±12	0.0%	±1.3
Dutch	0	±12	0.0%	±1.3
English	7	±11	0.3%	±0.4
French (except Basque)	0	±12	0.0%	±1.3
French Canadian	0	±12	0.0%	±1.3
German	25	±32	0.9%	±1.2
Greek	0	±12	0.0%	±1.3
Hungarian	0	±12	0.0%	±1.3
Irish	20	±23	0.7%	±0.9
Italian	8	±12	0.3%	±0.5
Lithuanian	0	±12	0.0%	±1.3
Norwegian	0	±12	0.0%	±1.3
Polish	0	±12	0.0%	±1.3
Portuguese	0	±12	0.0%	±1.3
Russian	0	±12	0.0%	±1.3
Scotch-Irish	0	±12	0.0%	±1.3
Scottish	0	±12	0.0%	±1.3
Slovak	0	±12	0.0%	±1.3
Subsaharan African	14	±23	0.5%	±0.9
Swedish	0	±12	0.0%	±1.3
Swiss	0	±12	0.0%	±1.3
Ukrainian	0	±12	0.0%	±1.3
Welsh	0	±12	0.0%	±1.3
West Indian (excluding Hispanic origin groups)	0	±12	0.0%	±1.3
COMPUTERS AND INTERNET USE				
Total households	992	±110	992	(X)
With a computer	805	±124	81.1%	±7.0
With a broadband Internet subscription	738	±114	74.4%	±8.1

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# Chapter 1:

## Introduction

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The purpose of this manual is to serve as a resource for participants attending the Fair Housing Essentials® training program of the National Center for Housing Management. Our goal with this manual is simple and straightforward: We hope the Fair Housing Essentials® training and manual will assist site managers, regional property managers, owners, and other interested individuals and entities to better understand the regulations that have been implemented and which form the basis for compliance.

One of the things that many people have remarked over the years is that unlike so many other regulations issued by the federal government, there is a lot of common sense inherent in fair housing and civil rights. True, there are a few “curve balls” here but one of the great things about civil rights regulations is that the basic concept behind them, making certain there is full and equal access, is fairly easy to understand and implement.

In this book, we will focus on the following regulations:

- The Fair Housing Act (FHA) and Fair Housing Act Amendments (FHAA) (24 CFR Part 100 et. seq.);
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (24 CFR Part 8);
- The Americans with Disabilities Act of 1990 (ADA); and
- Some of the fair housing protections afforded under state law.

A word about how this book is organized.

Some of you probably have other manuals you received when you took a NCHM course. What this manual has in common with those is that we are including the text of the appropriate language in an Appendix. We also have the during-the-course exercises as is customary for our courses.

The difference in this book, a difference more of style than of substance, is that it is written as a series of Frequently Asked Questions (FAQ). The questions appear in bold italics while the answers are in regular text. As we go through the presentation, you will be able to refer to the FAQ and utilize both the lecture and the manual to answer the quiz questions at the end of each segment.

*DISCLAIMER: This manual and the training program it accompanies are not intended as legal advice. Since violations of civil rights regulations can involve litigation and substantial monetary damages, participants are advised to rely solely on the advice of legal counsel in fair housing and other civil rights related matters.*

## Chapter 2:

# The Fair Housing Act and The Fair Housing Act Amendments

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This chapter covers the Fair Housing Act and the Fair Housing Act Amendments of 1988 as promulgated by the United States Department of Housing and Urban Development (24 CFR Parts 100 et. seq.).

### *What is the Fair Housing Act?*

The Fair Housing Act is Title VIII of the Civil Rights Act of 1968. It was amended in 1988 to include an additional two protected classes of persons:

- (1) Disability; and
- (2) Familial Status.

### *Who is responsible for enforcement of the Act?*

The Office of Fair Housing and Equal Opportunity is primarily responsible for compliance and enforcement of the Act, although many state agencies and non-profit organizations have been given what is called “essentially equivalent agency” authority for compliance and enforcement matters.

### *What are the basic provisions of the Act?*

The Fair Housing Act contains a common theme. In its most basic form, the Fair Housing Act makes it illegal to discriminate on the basis of race, color, religion, sex, handicap, familial status, or national origin. These are referred to as protected classes. With limited exceptions, the Fair Housing Act has universal applicability, including conventional housing (such as apartments, homes, condominiums, cooperatives, and manufactured housing), federally-subsidized housing, public housing, state housing finance agency-administered housing, and even most activities engaged in by real estate agents and mortgage companies.

### *That seems to cover most housing in the United States, doesn't it?*

Yes. Although there are additional, rare exceptions, the only entities effectively not covered by the Act are owner-occupied dwellings of four (4) or more.

### *So the Fair Housing Act covers both subsidized and non-subsidized properties?*

Yes, that's correct.

## □ Section I: Race and Color Discrimination

*What is discrimination in housing based on race or color?*

Put simply, it is treating someone differently on the basis of their racial background or skin color. In terms of the Fair Housing Act Amendments, this means subjecting someone to different treatment, screening, housing choice, access to amenities, lease enforcement, etc.

*Doesn't discrimination have to be intentional? What's the harm if I discriminate without meaning to do so?*

No. Discrimination need not be "intentional" to be subject to enforcement and compliance. Unintentional discrimination is still discrimination.

*Why does the Fair Housing Act make a separation between "race" and "color?" Aren't they the same thing?*

"Race" and "color" are two completely different concepts. The Fair Housing Act sought to end racial segregation in housing, but it also recognized a history of discrimination in this country that was based on the color of the individual but was not based on his or her race. Some of this discrimination manifested itself in a preference for and against people of different skin tones within the same racial group.

*How can I possibly discriminate on the basis of race when our state law prevents us from even asking about someone's racial background?*

This is an interesting question because it gets to the heart of a dilemma. There are many state laws that prohibit asking about someone's racial background. If you work at a property that is receiving federal housing assistance, the certification form for subsidy does ask for racial and ethnic information. In addition, you may be subject to an Affirmative Fair Housing Marketing Plan (AFHMP). HUD does prohibit including information on race and ethnicity (as well as gender) in connection with waiting lists. The problem, however, is that the logic of the question is fundamentally flawed. Simply because the documentation doesn't exist isn't, of itself, proof that discrimination didn't occur. Some people believe that it is possible to determine the racial background by visual observation or the sound of a voice. While neither of these beliefs is entirely without some truth, it also points out that the issue of whether or not one asks about race on an application is not an accurate measurement of whether or not an individual or entity is acting in a discriminatory manner.

*What is the most common form of discrimination based on race or color?*

It is difficult to say whether there is a "common" form of racial discrimination. Historically, the most common form of racial discrimination was segregation. Intentionally grouping individuals by race in particular buildings or parts of a town on the

- Selecting applicants from your waiting list on the basis of race (HUD prohibits information on race from being on waiting lists).
- Applying any existing standards in a skewed manner based on race. Prioritizing maintenance work orders based on the person, rather than the job, and giving first preference to residents of one race over another.
- Providing a lesser standard of maintenance service for one race.

*If we prepare an advertisement in which we show a group of "residents" who all happen to be white, does this mean we have discriminated?*

Advertising is covered by the Fair Housing Act and any advertisement which gives the impression that the housing is for members of a certain race can be regarded as discriminatory. While you may not intend discrimination, the ad you describe can be construed as discriminatory. Essentially, all advertising campaigns using human models should depict the majority and minority population in your metropolitan area (this is *not* the neighborhood or area of town, but the entire metro-area) and children as well. And those human models should be depicted in similar size and social standing (please don't have residents be white and service personnel be non-white!). If your ad concept doesn't work with lots of people, then rotate the various groups (racial, ethnic, etc.) during the course of the advertisement's publication; have your rotation plan in writing before the first use of the ad.

*Is there any other advertising about which we should worry?*

Just remember that advertising is not just in magazines and newspapers. It is anything that promotes your company or community. Brochures, billboards, model apartments with picture frames in the rooms, even bulletin boards or scrapbooks...all of these are ways you seek to have people choose to live with you. So if human models are used, remember diversity!

*What about the Equal Housing Opportunity Logo?*

Quite interestingly, the regulations do not require the use of the logo, but they strongly recommend it. And using it liberally (not only in ads, but on business cards, letterhead, even maintenance staff uniforms) is smart thing to do. First of all, you never want to be explaining in a courtroom or during an investigation why it *wasn't* used. And using it liberally speaks volumes about the commitment your company has made to this very important topic.

*Sexual harassment is prohibited under the Fair Housing Act? I am used to hearing about this issue only in connection with employment.*

You're not alone. Many people have become aware of sexual harassment as a result of employment issues: "Sexual Harassment in the Workplace" is a book that is widely credited with bringing this issue to the attention of the public, not to mention the widespread media exposure in connection with high profile lawsuits.

*What is the definition of sexual harassment?*

The federal statute defines sexual harassment as "repeated, pervasive, offensive conduct or behavior of a sexual nature." In some state laws, however, one incident is enough to be actionable under the state's sexual harassment statutes (such as New Jersey).

*This really depends on perception, doesn't it?*

If by that question you mean that you might not intend to have sexually harassed someone but they perceive that you did, you would be right. But so many lawsuits and complaints have flowed from perception which, as the old adage goes, is 9/10's of reality.

*So how is sexual harassment prohibited in the Fair Housing Act?*

There are two types of sexual harassment prohibited by the Act:

1. **Quid Pro Quo.** This is a Latin term which, loosely translated means "this for that." It is the most overt form of sexual harassment.
2. **Hostile Housing Environment.** This is more subtle and it is a modification of "Hostile work environment" in the original statutes prohibiting sexual harassment.

*Can you give us some examples?*

Here is an example of a quid pro quo case: Management agent to a prospective resident: "Sweetheart, if you sleep with me, I will give you a break on your rent." In this example, based on an actual case, the individual alleged to have sexually harassed is offering something (a break in the rent) for something sexual (sexual favors).

Here is an example of hostile housing environment: A resident goes to her apartment. She passes a couple of maintenance employees for the property who do the "wolf whistle." She complains to management, which takes no action except to assure her not to worry.

*Well, how was management wrong to respond in that way?*

In the second example, the resident felt threatened and unsafe. The maintenance employees may have had pass keys (they did). She also felt dehumanized and



monthly income) to the monthly rent they can afford. This is prohibited under the protected class of sex.

*Is it possible to have a policy where we rent to individuals of one sex but not another?*

Well, there are college dormitories which do this frequently. There is also single room occupancy (SRO) housing, and this type of housing has often received waivers from HUD. Other than this, the Fair Housing Act provides an exemption for religious organizations and private clubs, as follows:

“Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.” Fair Housing Act, 42 U.S.C. § 3607(a) (1988) (emphasis added).

The one area where this could be an issue if not handled write is student housing, an area into which a number of companies are now venturing. Some ideas about student housing can be found in an article by Nadeen Green, Senior Counsel with For Rent Magazine®, titled “School Days, School Days...Dear Fair Housing Rule Days.”

### □ Section III: Religious Discrimination

*I know this subject pretty well. You're going to tell me we can't have Christmas parties at the property, right?*

No, we're not going to tell you that.

*Really?*

Yes, really. It would, however, be better to have a “Holiday” party to lessen the possibility a resident or applicant could construe the party as indicative of a religious preference for or against a religious group. However, HUD has said that Santa (and the Easter Bunny), and the expressions “Merry Christmas” and “Happy Easter” do not themselves create a fair housing violation.

*Why would the second example be a violation? Isn't this just a preference against religion and a housing provider's freedom to express her religious beliefs?*

No, this isn't a preference against religion. Housing professionals must keep in mind this a heavily-regulated industry because housing is a basic human need and providing housing is a quasi-public activity. In the example of the woman who maintains the numerous pieces of religious paraphernalia at her desk, the problem isn't with her religious expression. Rather, the fair housing violation is the atmosphere she creates by exposing the public to her religious beliefs. A person who professes Islamic or Jewish faiths may feel as though this property prefers Christians. A Catholic may feel this property prefers Protestants. Even in this exaggerated example, the woman doesn't intend to communicate this preference, and her property may not actively discriminate against people based upon their religious beliefs, but her actions have created a discriminatory environment. Such an environment is a fair housing violation.

*Can we allow residents to hold a religious service in the community room?*

Yes, that is okay. But you must be aware that if you allow the use of a community room for a Catholic Mass, for instance, you must also allow Jewish residents to use the community room for Shabbat or Passover and this rule would also apply to residents of other faiths who wish to use the community room. Perhaps Muslim prayer sessions during Ramadan might also be appropriate in such circumstances.

*Are there any other things we should be alert to in terms of allowing residents to use the community room for religious purposes?*

Yes. Management needs to be careful not to give the impression that it is either promoting or discouraging residents from participating in resident-based religious services.

*Isn't that a "Catch-22" if we can't promote it or discourage it?*

Not really. In essence, management must take a "hands off" attitude. The role of management begins and ends at making the community space available.

*Can we include mention of the religious service in our monthly bulletin?*

If your bulletin includes space for notices by and for residents, this would be the appropriate place for a mention.

*Our housing is financed and was built by a church organization. Can they/we establish a preference in tenancy for members of that Church?*

No. Not if the housing is rental housing.

*In the wake of September 11<sup>th</sup>, we feel we should be doing criminal background checks on applicants with Islamic names. What is your opinion?*

If you are doing criminal background checks, you should be doing them on ALL applicants not just those with Islamic names. So anything along the lines of the question may lead to allegations of religious and/or national origin discrimination (see next section).

□ **Section IV: National Origin Discrimination**

*What is national origin discrimination?*

In connection with housing, national origin discrimination is treating an individual differently in the terms of rental, conditions of occupancy or other areas of policy, practice or procedure based on their country of origin, presumably outside of the United States.

*Doesn't this provision of the Fair Housing Act contradict the "Non-citizen rule" of the U.S. Department of Housing and Urban Development (HUD) which limits federal housing assistance to US citizens and eligible non-citizens?*

No, it doesn't. Section 214 of the Housing and Community Development Act as passed into law by the United States Congress specifically limited federal assisted housing to US citizens or non-citizens with eligible immigration status. The latter includes, by its very definition, individuals who were born outside the US so it is not a contradiction.

*What types of discrimination in housing might be considered "national origin" discrimination?*

The same types of actions we have already mentioned: different screening criteria, "steering," different policies, practices and procedures, and so on.

*Isn't there any type of complaint that comes to Fair Housing that is somewhat unique to national origin?*

It is always risky to say whether something is more prevalent to a specific group of persons protected by the Fair Housing Act. If we had to take a guess, however, it would probably be in the area of occupancy standards.

*What other issues could result in allegations of national origin discrimination?*

Any rule that requires all applicants and/or residents to provide copies of birth certificates.

disclosed and law enforcement can determine who, if anyone, is a legitimate focus for investigation.

That said, if your suspicions about someone's activities are based on information or observations that are not solely tied to an individual's national origin, do not hesitate to communicate those concerns to law enforcement.

*In a similar vein, if a resident harasses another resident because they are of Middle Eastern background, are we liable under Fair Housing laws?*

We cannot address liability issues but as a general rule when the rights of a resident are alleged to have been violated, by either management or another resident, it is a matter of concern. Because neighbor-to-neighbor discrimination based on race has been held to be an issue which management must address, courts would likely parallel this position in a national origin case.

*Diversity of language is directly tied to national origin diversity. As a maintenance professional who speaks only English, how do I do what needs to be done when I cannot communicate with residents?*

Here are two ideas that might be helpful. First, in a large company, chances are there is someone who speaks a non-English language along with English, particularly if this other language is somewhat widespread, such as Spanish. That employee could develop a work order in that other language for certain of the residents to use. The employee could then translate the work order for maintenance personnel. Because of fax machines, this will work even if the employee who is bilingual or multi-lingual is not at your community.

Another idea comes from Scott Beckman with *CommonBond* (see his article "Getting to Know You..." written with Nadeen Green, Senior Counsel with *For Rent Magazine*®). He suggests a laminated card as a handy tool. Show pictures of a toilet, a bathroom sink, a refrigerator, stove, light bulb, etc. You may not understand what the problem with refrigerator may be, for example, but you will at least have a starting point as to the general nature of the problem. And with images, you create a "universal language," needing only one card no matter how many languages are spoken at your community.

#### □ Section V: Discrimination on the Basis of Disability

*Why is discrimination on the basis of disability prohibited by the Fair Housing Act when a lot of the subject is already addressed in Section 504?*

The Fair Housing Act was amended in 1988 to include two additional protected classes: individuals with disabilities and familial status (see Section VI). While Section 504 is indeed a law that protects persons with disabilities (see next Chapter), the scope of that law is limited to recipients of federal financial assistance and covers only employment and physical accessibility.

occupancy on or before March 13, 1991, if the dwelling is occupied by that date, or if the last building permit or renewal thereof government on or before June 15, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1): A real estate developer plans to construct six covered multifamily dwelling units on a site with a hilly terrain. Because of the terrain, it will be necessary to climb a long and steep stairway in order to enter the dwellings. Since there is no practical way to provide an accessible route to any of the dwellings, one need not be provided.

Example (2): A real estate developer plans to construct a building consisting of 10 units of multifamily housing on a waterfront site those floods frequently. Because of this unusual characteristic of the site, the builder plans to construct the building on stilts. It is customary for housing in the geographic area where the site is located to be built on stilts. The housing may lawfully be constructed on the proposed site on stilts even though this means that there will be no practical way to provide an accessible route to the building entrance.

Example (3): A real estate developer plans to construct a multifamily housing facility on a particular site. The developer would like the facility to be built on the site to contain as many units as possible. Because of the configuration and terrain of the site, it is possible to construct a building with 105 units on the site provided the site does not have an accessible route leading to the building entrance. It is also possible to construct a building on the site with an accessible route leading to the building entrance. However, such a building would have no more than 100 dwelling units. The building to be constructed on the site must have a building entrance on an accessible route because it is not impractical to provide such an entrance because of the terrain or unusual characteristics of the site.

(c) All covered multifamily dwellings for first occupancy after March 13, 1991 with a building entrance on an accessible route shall be designed and constructed in such a manner that—

1. The public and common use areas are readily accessible to and usable by handicapped persons;
2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
3. All premises within covered multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the covered dwelling unit;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(i) This subpart does not invalidate or limit any law of a State or political subdivision of a State that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subpart. [54 FR 3283, Jan. 23, 1989, as amended at 56 FR 11665, Mar. 20, 1991]. Source: 24 CFR Part 100.205.

*What do you regard as the most important elements of the Fair Housing Act on this issue other than physical accessibility?*

Without question, the issues of reasonable accommodation and reasonable modification.

*What is the definition of "reasonable accommodation?"*

The definition of reasonable accommodation is the following:

An alteration to a policy, practice or procedure that is both reasonable and necessary to enable a person with a disability to benefit from and enjoy housing. The regulations state the following:

It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas:

Example (1): A blind applicant for rental housing wants live in a dwelling unit with a seeing eye dog. The building has a no pets policy. It is a violation of Sec. 100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because, without the seeing eye dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.

Example (2): Progress Gardens is a 300 unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a first come first served basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more than a short distance and therefore requests that a parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation of Sec. 100.204 for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John an equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances. Source: 24 CFR Part 100.204.

These two examples reflect the two most often requested reasonable accommodations for the apartment industry...parking and service animals.

*Doesn't the physician have to tell us what the disability is or how severe it may be?*

No. You are only entitled to verification of the existence of the disability and that there is a connection between that unspecified disability and the request for accommodation that is being made by the prospect or resident.

*What is the most often requested reasonable accommodation?*

Actually, there are two accommodations that come up with frequency. These are requests related to parking and requests for a service animal in a building that has a no-pet policy.

*What is a service animal?*

A service animal is any animal that is needed to provide assistance for a person with a disability. This includes not only seeing-eye dogs, hearing-ear dogs, or a trained monkey for a quadriplegic, but also an animal that is necessary for a person with an emotional disability (commonly referred to as a companion animal). Pet deposits may not be assessed for service animals.

*What are the parking issues?*

Generally, if having an available parking spot in a particular place will make it more manageable for a resident because of their disability, you are going to have to work with them to insure that such a spot is "earmarked" for them and work to keep others from parking there.

*We've been providing reasonable accommodations for years but we've never had a formal policy. Does this present any problems?*

While your actions are commendable, a policy is needed so that there is a structure or procedure that is followed on a companywide basis.

*Is a request for a live-in aide considered a reasonable accommodations request?*

Yes. Additionally, if you are a HUD assisted property, the regulations state that the live-in aide is to be listed on the 59 data reporting as a live-in aide but they are not to sign a lease and their income is not counted. The HUD Handbook 4350.3 Rev-1 also requires that live-in aides be screened for criminal background but management should obtain legal counsel to determine whether such screening would create a tenancy under state landlord-tenant law.

modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example (2): An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

*So we can charge the resident for making modifications?*

Market rate developments can assess such charges under certain conditions, which usually relate to the age of the building; HUD assisted properties cannot due to the provisions of Section 504 of the Rehabilitation Act of 1973. However, HUD assisted properties can require a tenant to place money into escrow so that the premises can be returned to a usable condition. As was previously mentioned, this would not be done in connection with narrowing a door that has been widened nor would it be done if the owner wishes to retain the modified apartment for future residents.

*For market rate developments, what does age have to do with anything?*

The requirements are different for communities that were first occupied before March 12, 1991. These are "older" communities for Fair Housing purposes which means that no special design features were required. Usually the only responsibility of the landlord is to allow a resident, at the resident's cost, to make reasonable modifications to the apartment. But for buildings first occupied on or after March 13, 1991, the standard is different. The Fair Housing act requires that all the ground floor and/or elevator accessible apartments in such "new" buildings have the design features that we have already discussed. So the only reasonable modifications for which a resident would have to pay are related to what is not required in the first place. That is why it is important for property managers, leasing agents and maintenance professionals to understand this area of the law. Check the date, then if "new," check the design requirement list before anyone (leasing, property management or maintenance) requires anything of the resident or commits to them. "Beware the (Almost) Ides of March" by Nadeen Green, Senior Counsel with *ForRent Magazine*® gives you more information on this.



*So familial status does not refer to whether an individual is single or married?*

That's correct.

*Can you give examples of familial status discrimination?*

Here are a few examples that could be considered familial status discrimination:

- Requiring a family with children to occupy an apartment on a lower floor. This would be considered a policy that restricts housing choice.
- Requiring a single mother with a child to occupy (or be eligible for) a two bedroom unit. A parent or grandparent can share a bedroom with a child at their option, no matter whether the child is a boy or a girl.
- Having rules that target children, such as a policy that states children shall not play in the hallways. In fact, any policy that mentions the words "child" or "children" needs to have legal review. In the above example, the property with this policy was found liable for familial status discrimination; the judge noting that children playing checkers in the hallway would not disturb anyone, and that if the company's intent was to have zero tolerance for noise or disruptions in the hallways, that policy should be addressed to all residents and not just to those with children. There are valid ways to have rules related to children for swimming pools, exercise facilities and specialty equipment such as saunas and hot tubs. Any other rules related to children are probably risky.

*We provide HUD assisted housing for seniors. Do we have to allow children?*

Yes. HUD regulations specify that as long as the head of household, co-head or spouse meets the program eligibility criteria, the fact that there is a child in the household cannot be used to disqualify the application.

*Is legal custody required?*

No. Grandparents are increasingly becoming the primary caregivers for their grandchildren and getting custody is costly, lengthy and may be difficult or impossible based on state legal requirements for terminating parental rights. Management can require some documentation from the legal parent or guardian or social services organization acknowledging the child is living with their grandparent or other adult caregiver.

*Isn't there an exemption for housing for older persons?*

Yes there is. The provisions (24 CFR Part 100.304) regarding familial status in this part do not apply to housing intended and operated for persons 55 years of age or older (an older person) or for housing occupied by persons 62 and older. For "55+" housing, at least 80 percent of its occupied units are occupied by at least one person 55 years of age

## Chapter 3:

# Section 504 of the Rehabilitation Act

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### *What is Section 504 of the Rehabilitation Act?*

Section 504 of the Rehabilitation Act of 1973 as amended is a federal law that prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance. The regulations cover two issues: employment, and physical accessibility (what the regulations refer to as program accessibility).

### *If we are involved in HUD federally assisted housing, does Section 504 apply to us?*

Section 504 is applicable to all HUD programs except the Section 221(d) (4) program.

### *What about Section 42 Low Income Housing Tax Credits?*

Tax credits are not considered to be federal financial assistance, so this type of housing is not subject to Section 504 unless there is project-based subsidy provided within the tax credit building. The Tax Credit program is subject to the requirements of the Americans with Disabilities Act (ADA).

### *What are the similarities and the differences between Section 504 and the ADA?*

The two laws are alike in several ways.

- Both laws protect persons with disabilities
- Both laws cover employment and physical accessibility

The differences between the two laws are:

- Section 504 is applicable only to recipients of federal funds.
- The ADA is more broadly applicable to private as well as governmental entities.
- Section 504 uses the Uniform Federal Accessibility Standards (UFAS).
- ADA uses the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

### *Is it possible for an entity to be covered under both Section 504 and the ADA? If both are applicable, which law is followed?*

While it is clear in the legislative history that the Congress did not intend to create what is called an essentially duplicative burden, this is effectively what has happened. It was the intent of Congress that the ADA be applicable to those entities which were not already covered by Section 504.

(a) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements.

(b) If power-driven vertical access equipment (e.g., escalator) is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of accessible vertical access shall be provided that complies with 4.7, Curb Ramps; 4.8, Ramps; 4.10, Elevators; or 4.11, Platform Lifts; except to the extent where it is structurally impracticable in transit facilities.

(c) If alterations of single elements, when considered together, amount to an alteration of a space of a building or facility, the entire space shall be made accessible.

(d) No alteration of an existing element, space, or area of a building shall impose a requirement for greater accessibility than that which would be required for new construction. For example, if the elevators and stairs in a building are being altered and the elevators are, in turn, being made accessible, then no accessibility modifications are required to the stairs connecting levels connected by the elevator.

(e) If the alteration work is limited solely to the electrical, mechanical, or plumbing system and does not involve the alteration of any elements and spaces required to be accessible under these standards, then 4.1.6(3) does not apply.

(f) No new accessibility alterations will be required of existing elements or spaces previously constructed or altered in compliance with earlier standards issued pursuant to the Architectural Barriers Act of 1968, as amended.

(g) Mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6.

(2) Where a building or facility is vacated and it is totally altered, then it shall be altered to comply with 4.1.1 to 4.1.5 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable.

(3) Where substantial alteration occurs to a building or facility, then each element or space that is altered or added shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable. The altered building or facility shall contain:

(a) At least one accessible route complying with 4.3, Accessible Route, and 4.1.6(a);

(a) Ramps. Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as shown in Table 2 if space limitations prohibit the use of a 1:12 slope or less.

**Table 2 -- Allowable Ramp Dimensions for Construction in Existing Sites, Buildings, and Facilities**

Slope*	Maximum Rise		Maximum Run	
	in	mm	ft	m
Steeper than 1:10 but no steeper than 1:8	3	75	2	0.6
Steeper than 1:12 but no steeper than 1:10	6	150	5	1.5

\* A slope steeper than 1:8 not allowed.

(b) Stairs. Full extension of stair handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configuration.

(c) Elevators.

(i) If a safety door edge is provided in existing automatic elevators, then the automatic door reopening devices may be omitted (see 4.10.6).

(ii) Where existing shaft or structural elements prohibit strict compliance with 4.10.9, then the minimum floor area dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 48 in by 48 in (1220 mm by 1220 mm).

(d) Doors.

(i) Where existing elements prohibit strict compliance with the clearance requirements of 4.13.5, a projection of 5/8 in (16 mm) maximum will be permitted for the latch side door stop.

(ii) If existing thresholds measure 3/4 in (19 mm) high or less, and are beveled or modified to provide a beveled edge on each side, then they may be retained.

(e) Toilet rooms. Where alterations to existing facilities make strict compliance with 4.22 and 4.23 structurally impracticable, the addition of one "unisex" toilet per floor containing one water closet complying with 4.16 and one lavatory complying with 4.19, located adjacent to existing toilet facilities, will be acceptable in lieu of making existing toilet facilities for each sex accessible.

**EXCEPTION:** In instances of alteration work where provision of a standard stall (Fig. 30(a)) is structurally impracticable or where plumbing code requirements prevent combining existing stalls to provide space, an alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

(b) At least one accessible entrance which is used by the public complying with 4.14 shall be provided.

*EXCEPTION:* If it is determined that no entrance used by the public can comply with 4.14, then access at any entrance not used by the general public but open (unlocked) with directional signs at the primary entrance may be used.

(c) If toilets are provided, then at least one toilet facility complying with 4.22 and 4.1.6 shall be provided along an accessible route that complies with 4.3. Such toilet facility may be "unisex" in design.

(d) Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access should be provided to all levels of a building or facility in compliance with 4.1 whenever practical.

(e) Displays and written information, documents, etc, should be located where they can be seen by a seated person. Exhibits and signage displayed horizontally, e.g., books, should be no higher than 44 in (1120 mm) above the floor surface.

## **4.2 SPACE ALLOWANCE AND REACH RANGES.**

**4.2.1\* WHEELCHAIR PASSAGE WIDTH.** The minimum clear width for single wheelchair passage shall be 32 in (815 mm) at a point and 36 in (915 mm) continuously (see Fig. 1 and 24(e)).

**4.2.2 WIDTH FOR WHEELCHAIR PASSING.** The minimum width for two wheelchairs to pass is 60 in (1525 mm) (see Fig. 2).

**4.2.3\* WHEELCHAIR TURNING SPACE.** The space required for a wheelchair to make a 180-degree turn is a clear space of 60 in (1525 mm) diameter (see Fig. 3(a)) or a T-shaped space (see Fig. 3(b)).

## **4.2.4\* CLEAR FLOOR OR GROUND SPACE FOR WHEELCHAIRS.**

**4.2.4.1 SIZE AND APPROACH.** The minimum clear floor or ground space required to accommodate a single, stationary wheelchair occupant is 30 in by 48 in (760 mm by 1220 mm) (see Fig. 4(a)). The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object (see Fig. 4(b) and (c)). Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

## **4.2.4.2 RELATIONSHIP OF MANEUVERING CLEARANCE TO WHEELCHAIR SPACES.**

One full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear

**4.3.5 HEAD ROOM.** Accessible routes shall comply with 4.4.2.

**4.3.6 SURFACE TEXTURES.** The surface of an accessible route shall comply with 4.5.

**4.3.7 SLOPE.** An accessible route with a running slope greater than 1:20 is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50.

**4.3.8 CHANGES IN LEVELS.** Changes in levels along an accessible route shall comply with 4.5.2. If an accessible route has changes in level greater than 1/2 in (13 mm), then a curb ramp, ramp, elevator, or platform lift shall be provided that complies with 4.7, 4.8, 4.10, or 4.11, respectively. Stairs shall not be part of an accessible route.

**4.3.9 DOORS.** Doors along an accessible route shall comply with 4.13.

**4.3.10\* EGRESS.** Accessible routes serving any accessible space or element shall also serve as a means of egress for emergencies or connect to an accessible place of refuge. Such accessible routes and places of refuge shall comply with the requirements of the administrative authority having jurisdiction. Where fire code provisions require more than one means of egress from any space or room, then more than one accessible means of egress shall also be provided for handicapped people. Arrange egress so as to be readily accessible from all accessible rooms and spaces.

#### **4.4 PROTRUDING OBJECTS.**

**4.4.1\* GENERAL.** Objects projecting from walls (for example, telephones) with their leading edges between 27 in and 80 in (685 mm and 2030 mm) above the finished floor shall protrude no more than 4 in (100 mm) into walks, halls, corridors, passageways, or aisles (see Fig. 8(a)). Objects mounted with their leading edges at or below 27 in (685 mm) above the finished floor may protrude any amount (see Fig. 8(a) and (b)). Free-standing objects mounted on posts or pylons may overhang 12 in (305 mm) maximum from 27 in to 80 in (685 mm to 2030 mm) above the ground or finished floor (see Fig. 8(c) and (d)). Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (see Fig. 8(e)).

**4.4.2 HEAD ROOM.** Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have 80 in (2030 mm) minimum clear head room (see Fig. 8(a)). If vertical clearance of an area adjoining an accessible route is reduced to less than 80 in (nominal dimension), a barrier to warn blind or visually-impaired persons shall be provided (see Fig. 8(c)).

#### **4.5 GROUND AND FLOOR SURFACES.**

**4.5.1\* GENERAL.** Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with 4.5.

**4.6.4\* SIGNAGE.** Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility (see 4.30.5). Such signs shall not be obscured by a vehicle parked in the space.

**4.6.5 PASSENGER LOADING ZONES.** Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (6 m) long adjacent and parallel to the vehicle pull-up space (see Fig. 10). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with 4.7 shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

**4.6.6 VERTICAL CLEARANCE.** Provide minimum vertical clearances of 114 in at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be 114 in.

#### **4.7 CURB RAMPS.**

**4.7.1 LOCATION.** Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb.

**4.7.2 SLOPE.** Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.

**4.7.3 WIDTH.** The minimum width of a curb ramp shall be 36 in (915 mm), exclusive of flared sides.

**4.7.4 SURFACE.** Surfaces of curb ramps shall comply with 4.5.

**4.7.5 SIDES OF CURB RAMPS.** If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, then it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

**4.7.6 BUILT-UP CURB RAMPS.** Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes (see Fig. 13).

**4.7.7 WARNING TEXTURES.** (Removed and reserved).

**4.7.8 OBSTRUCTIONS.** Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

Handrails are not required on curb ramps. Handrails shall comply with 4.26 and shall have the following features:

- (1) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.
- (2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface.
- (3) The clear space between the handrail and the wall shall be 1-1/2 in (38 mm).
- (4) Gripping surfaces shall be continuous.
- (5) Top of handrail gripping surfaces shall be mounted between 30 in and 34 in (760 mm and 865 mm) above ramp surfaces.
- (6) Ends of handrails shall be either rounded or returned smoothly to floor, wall or post.
- (7) Handrails shall not rotate within their fittings.

**4.8.6 CROSS SLOPE AND SURFACES.** The cross slope of ramp surfaces shall be no greater than 1:50. Ramp surfaces shall comply with 4.5.

**4.8.7 EDGE PROTECTION.** Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum of 2 in (50 mm) high (see Fig. 17).

**4.8.8 OUTDOOR CONDITIONS.** Outdoor ramps and their approaches shall be designed so that water will not accumulate on walking surfaces.

## **4.9 STAIRS.**

**4.9.1 MINIMUM NUMBER.** Stairs required to be accessible by 4.1 shall comply with 4.9.

**4.9.2 TREADS AND RISERS.** On any given flight of stairs, all steps shall have uniform riser heights and uniform tread widths. Stair treads shall be no less than 11 in (280 mm) wide, measured from riser to riser (see Fig. 18(a)). Open risers are not permitted on accessible routes.

**4.9.3 NOSINGS.** The undersides of nosings shall not be abrupt. The radius of curvature at the leading edge of the tread shall be no greater than 1/2 in (13 mm). Risers shall be sloped or the underside of the nosing shall have an angle not less than 60 degrees from the horizontal. Nosings shall project no more than 1-1/2 in (38 mm) (see Fig. 18).



**4.10.3 HALL CALL BUTTONS.** Call buttons in elevator lobbies and halls shall be centered at 42 in (1065 mm) above the floor. Such call buttons shall have visual signals to indicate when each call is registered and when each call is answered. Call buttons shall be a minimum of 3/4 in (19 mm) in the smallest dimension. The button designating the up direction shall be on top (see Fig. 20). Buttons shall be raised or flush. Objects mounted beneath hall call buttons shall not project into the elevator lobby more than 4 in (100 mm).

**4.10.4 HALL LANTERNS.** A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call. Audible signals shall sound once for the up direction and twice for the down direction or shall have verbal annunciators that say "up" or "down." Visible signals shall have the following features:

- (1) Hall lantern fixtures shall be mounted so that their centerline is at least 72 in (1830 mm) above the lobby floor.
- (2) Visual elements shall be at least 2-1/2 in (64 mm) in the smallest dimension.
- (3) Signals shall be visible from the vicinity of the hall call button. In-car lanterns located in cars, visible from the vicinity of hall call buttons, and conforming to the above requirements, shall be acceptable (see Fig. 20).

**4.10.5 RAISED CHARACTERS ON HOISTWAY ENTRANCES.** All elevator hoistway entrances shall have raised floor designations provided on both jambs. The centerline of the characters shall be 60 in (1525 mm) from the floor. Such characters shall be 2 in (50 mm) high and shall comply with 4.30. Permanently applied plates are acceptable if they are permanently fixed to the jambs. (See Fig. 20).

**4.10.6\* DOOR PROTECTIVE AND REOPENING DEVICE.** Elevator doors shall open and close automatically. They shall be provided with a reopening device that will stop and reopen a car door and hoistway door automatically if the door becomes obstructed by an object or person. The device shall be capable of completing these operations without requiring contact for an obstruction passing through the opening at heights of 5 in and 29 in (125 mm and 735 mm) from the floor (see Fig. 20). Door reopening devices shall remain effective for at least 20 seconds. After such an interval, doors may close in accordance with the requirements of ANSI A17.1-1978 and A17.1a-1979.

**4.10.7\* DOOR AND SIGNAL TIMING FOR HALL CALLS.** The minimum acceptable time from notification that a car is answering a call until the doors of that car start to close shall be calculated from the following equation:

$$T = D \text{ or } T = D$$

$$1.5 \text{ ft/s } 445 \text{ mm/s}$$

(4) Location. Controls shall be located on a front wall if cars have center opening doors, and at the side wall or at the front wall next to the door if cars have side opening doors (see Fig. 23(c) and (d)).

**4.10.13\* CAR POSITION INDICATORS.** In elevator cars, a visual car position indicator shall be provided above the car control panel or over the door to show the position of the elevator in the hoistway. As the car passes or stops at a floor served by the elevators, the corresponding numerals shall illuminate, and an audible signal shall sound. Numerals shall be a minimum of 1/2 in (13 mm) high. The audible signal shall be no less than 20 decibels with a frequency no higher than 1500 Hz. An automatic verbal announcement of the floor number at which a car stops or which a car passes may be substituted for the audible signal.

**4.10.14\* EMERGENCY COMMUNICATIONS.** If provided, emergency two-way communication systems between the elevator and a point outside the hoistway shall comply with ANSI A17.1-1978 and A17.1a-1979. The highest operable part of a two-way communication system shall be a maximum of 48 in (1220 mm) from the floor of the car. It shall be identified by a raised or recessed symbol and lettering complying with 4.30 and located adjacent to the device. If the system uses a handset, then the length of the cord from the panel to the handset shall be at least 29 in (735 mm). If the system is located in a closed compartment, the compartment door hardware shall conform to 4.27, Controls and Operating Mechanisms. The emergency intercommunication system shall not require voice communication.

#### **4.11\* PLATFORM LIFTS.**

**4.11.1 LOCATION.** Platform lifts permitted by 4.1 shall comply with the requirements of 4.11.

**4.11.2 OTHER REQUIREMENTS.** If platform lifts are used, they shall comply with 4.2.4, 4.5, 4.27, and the applicable safety regulations of administrative authorities having jurisdiction.

**4.11.3 ENTRANCE.** If platform lifts are used, then they should facilitate unassisted entry and exit from the lift in compliance with 4.112.

**4.12 WINDOWS.** (Reserved).

#### **4.13 DOORS.**

**4.13.1 GENERAL.** Doors required to be accessible by 4.1 shall comply with the requirements of 4.13.

**4.13.2 REVOLVING DOORS AND TURNSTILES.** Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible

**4.13.10\* DOOR CLOSERS.** If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 in (75 mm) from the latch, measured to the leading edge of the door.

**4.13.11\* DOOR OPENING FORCE.** The maximum force for pushing or pulling open a door shall be as follows:

(1) Fire doors shall have the minimum opening force allowable by the appropriate administrative authority.

(2) Other doors.

(a) exterior hinged doors: (Reserved).

(b) interior hinged doors: 5 lbf (22.2N)

(c) sliding or folding doors: 5 lbf (22.2N)

These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

**4.13.12\* AUTOMATIC DOORS AND POWER-ASSISTED DOORS.** If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power-assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform to the requirements in section 10 of ANSI A156.10-1979.

#### **4.14 ENTRANCES.**

**4.14.1 MINIMUM NUMBER.** Entrances required to be accessible by 4.1 shall be part of an accessible route and shall comply with 4.3. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available (see 4.3.2(1)). They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

**4.14.2 SERVICE ENTRANCES.** A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

**4.16.5\* FLUSH CONTROLS.** Flush controls shall be hand operated or automatic and shall comply with 4.27.4. Controls for flush valves shall be mounted on the wide side of toilet areas no more than 44 in (1120 mm) above the floor.

**4.16.6 DISPENSERS.** Toilet paper dispensers shall be installed within reach, as shown in Fig. 29(b). Dispensers that control delivery, or that do not permit continuous paper flow, shall not be used.

#### **4.17 TOILET STALLS.**

**4.17.1 LOCATION.** Accessible toilet stalls shall be on an accessible route and shall meet the requirements of 4.17.

**4.17.2 WATER CLOSETS.** Water closets in accessible stalls shall comply with 4.16.

**4.17.3 SIZE AND ARRANGEMENT.** The size and arrangement of toilet stalls shall comply with Fig. 30(a). Toilet stalls with a minimum depth of 56 in (1420 mm) (see Fig. 30(a)) shall have wall-mounted water closets. If the depth of toilet stalls is increased at least 3 in (75 mm), then a floor-mounted water closet may be used. Arrangements shown for stalls may be reversed to allow either a left- or right-hand approach.

*EXCEPTION:* In instances of alteration work where provision of a standard stall (Fig. 30(a)) is structurally impracticable or where plumbing code requirements prevent combining existing stalls to provide space, an alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

**4.17.4 TOE CLEARANCES.** In standard stalls, the front partition and at least one side partition shall provide a toe clearance of at least 9 in (230 mm) above the floor. If the depth of the stall is greater than 60 in (1525 mm), then the toe clearance is not required.

**4.17.5\* DOORS.** Toilet stall doors shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 in (1065 mm).

**4.17.6 GRAB BARS.** Grab bars complying with the length and positioning shown in Fig. 30(a), (b), (c), and (d) shall be provided. Grab bars may be mounted with any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with 4.26.

#### **4.18 URINALS.**

**4.18.1 GENERAL.** Accessible urinals shall comply with 4.18.

**4.18.2 HEIGHT.** Urinals shall be stall-type or wall-hung with an elongated rim at a maximum of 17 in (430 mm) above the floor.

**4.20.3 SEAT.** An in-tub seat or a seat at the head end of the tub shall be provided as shown in Fig. 33 and 34. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

**4.20.4 GRAB BARS.** Grab bars complying with 4.26 shall be provided as shown in Fig. 33 and 34.

**4.20.5 CONTROLS.** Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 34.

**4.20.6 SHOWER UNIT.** A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

**4.20.7 BATHTUB ENCLOSURES.** If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

#### **4.21 SHOWER STALLS.**

**4.21.1\* GENERAL.** Accessible shower stalls shall comply with 4.21. For shower stalls in accessible dwelling units, see 4.34.5.5.

**4.21.2 SIZE AND CLEARANCES.** Shower stall size and clear floor space shall comply with Fig. 35(a) or (b). The shower stall in Fig. 35(a) shall be 36 in by 36 in (915 mm by 915 mm). The shower stall in Fig. 35(b) will fit into the space required for a bathtub.

**4.21.3 SEAT.** A seat shall be provided in shower stalls 36 in by 36 in (915 mm by 915 mm) and shall be as shown in Fig. 36. The seat shall be mounted 17 in to 19 in (430 mm to 485 mm) from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with 4.26.3.

**4.21.4 GRAB BARS.** Grab bars complying with 4.26 shall be provided as shown in Fig. 37.

**4.21.5 CONTROLS.** Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 37. In shower stalls 36 in by 36 in (915 mm by 915 mm), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

**4.21.6 SHOWER UNIT.** A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

*EXCEPTION:* In unmonitored facilities where vandalism is a consideration, a fixed shower head mounted at 48 in (1220 mm) above the shower floor may be used in lieu of a hand-held shower head.

**4.23.3 CLEAR FLOOR SPACE.** The accessible fixtures and controls required in 4.23.4, 4.23.5, 4.23.6, 4.23.7, 4.23.8, and 4.23.9 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible bathroom. The clear floor spaces at fixtures and controls, the accessible route, and the turning space may overlap.

*EXCEPTION:* In bathrooms with only one water closet, one lavatory, and one bathtub or shower, a clear floor space of 30 in by 60 in (760 mm by 1525 mm) may be used in lieu of the unobstructed turning space.

**4.23.4 WATER CLOSETS.** If toilet stalls are provided, then at least one shall comply with 4.17; its water closet shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

**4.23.5 URINALS.** If urinals are provided, then at least one shall comply with 4.18.

**4.23.6 LAVATORIES AND MIRRORS.** If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

**4.23.7 CONTROLS AND DISPENSERS.** If controls, dispensers, receptacles, or other equipment is provided, then at least one of each shall be on an accessible route and shall comply with 4.27.

**4.23.8 BATHING AND SHOWER FACILITIES.** If tubs or showers are provided, then at least one accessible tub that complies with 4.20 or at least one accessible shower that complies with 4.21 shall be provided.

**4.23.9\* MEDICINE CABINETS.** If medicine cabinets are provided, at least one shall be located with a usable shelf no higher than 44 in (1120 mm) above the floor space. The floor space shall comply with 4.2.4.

#### **4.24 SINKS.**

**4.24.1 GENERAL.** Sinks required to be accessible by 4.1 shall comply with 4.24. Sinks in kitchens of accessible dwelling units shall comply with 4.34.6.5.

**4.24.2 HEIGHT.** Sinks shall be mounted with the counter or rim no higher than 34 in (865 mm) from the floor.

**4.24.3 KNEE CLEARANCE.** Knee clearance that is at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be provided underneath sinks.

**4.24.4 DEPTH.** Each sink shall be a maximum of 6-1/2 in (165 mm) deep.

**4.24.5 CLEAR FLOOR SPACE.** A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a sink to allow forward

(2) Shear stress induced in a grab bar or seat by the application of 250 lbf (1112N) shall be less than the allowable shear stress for the material of the grab bar or seat. If the connection between the grab bar or seat and its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.

(3) Shear force induced in a fastener or mounting device from the application of 250 lbf (1112N) shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(4) Tensile force induced in a fastener by a direct tension force of 250 lbf (1112N) plus the maximum moment from the application of 250 lbf (1112N) shall be less than the allowable withdrawal and the supporting structure.

(5) Grab bars shall not rotate within their fittings.

**4.26.4 ELIMINATING HAZARDS.** A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of 1/8 in (3.2 mm).

#### **4.27 CONTROLS AND OPERATING MECHANISMS.**

**4.27.1 GENERAL.** Controls and operating mechanisms required to be accessible by 4.1 shall comply with 4.27.

**4.27.2 CLEAR FLOOR SPACE.** Clear floor space complying with 4.2.4 that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment.

**4.27.3\* HEIGHT.** The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Except where the use of special equipment dictates otherwise, electrical and communications system receptacles on walls shall be mounted no less than 15 in (380 mm) above the floor.

**4.27.4 OPERATION.** Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

#### **4.28 ALARMS.**

**4.28.1 GENERAL.** Alarm systems required to be accessible by 4.1 shall comply with 4.28.

**4.28.2\* AUDIBLE ALARMS.** If provided, audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least

**4.29.7\* STANDARDIZATION.** Textured surfaces for tactile door warnings shall be standard within a building, facility, site, or complex of buildings.

### **4.30 SIGNAGE.**

**4.30.1\* GENERAL.** Signage required to be accessible by 4.1 shall comply with 4.30.

**4.30.2\* CHARACTER PROPORTION.** Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10.

**4.30.3\* COLOR CONTRAST.** Characters and symbols shall contrast with their background - either light characters on a dark background or dark characters on a light background.

**4.30.4\* RAISED CHARACTERS OR SYMBOLS.** Letters and numbers on signs shall be raised 1/32 in (0.8 mm) minimum and shall be sans serif characters. Raised characters or symbols shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). Symbols or pictographs on signs shall be raised 1/32 in (0.8 mm) minimum.

**4.30.5 SYMBOLS OF ACCESSIBILITY.** Accessible facilities required to be identified by 4.1, shall use the international symbol of accessibility. The symbol shall be displayed as shown in Fig. 43.

**4.30.6 MOUNTING LOCATION AND HEIGHT.** Interior signage shall be located alongside the door on the latch side and shall be mounted at a height of between 54 in and 66 in (1370 mm and 1675 mm) above the finished floor.

### **4.31 TELEPHONES.**

**4.31.1 GENERAL.** Public telephones required to be accessible by 4.1 shall comply with 4.31.

**4.31.2 CLEAR FLOOR OR GROUND SPACE.** A clear floor or ground space at least 30 in by 48 in (760 mm by 1220 mm) that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones (see Fig. 44). The clear floor or ground space shall comply with 4.2.4. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

**4.31.3\* MOUNTING HEIGHT.** The highest operable part of the telephone shall be within the reach ranges specified in 4.2.5 or 4.2.6.

**4.31.4 PROTRUDING OBJECTS.** Telephones shall comply with 4.4.



*EXCEPTION:* Accessible viewing positions may be clustered for bleachers, balconies, and other areas having sight lines that require slopes of greater than 5 percent. Equivalent accessible viewing positions may be located on levels having accessible egress.

**4.33.4 SURFACES.** The ground or floor at wheelchair locations shall be level and shall comply with 4.5.

**4.33.5 ACCESS TO PERFORMING AREAS.** An accessible route shall connect wheelchair seating locations with performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

**4.33.6\* PLACEMENT OF LISTENING SYSTEMS.** If the listening system provided serves individual fixed seats, then such seats shall be located within a 50 ft (15 m) viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

**4.33.7\* TYPES OF LISTENING SYSTEMS.** Audio loops and radio frequency systems are two acceptable types of listening systems.

#### **4.34 DWELLING UNITS.**

**4.34.1 GENERAL.** The requirements of 4.34 apply to dwelling units required to be accessible by 4.1.

**4.34.2\* MINIMUM REQUIREMENTS.** An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(1) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with 4.2 through 4.33.

(2) Accessible spaces shall have maneuvering space complying with 4.2.2 and 4.2.3 and surfaces complying with 4.5.

(3) At least one accessible route complying with 4.3 shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.

(4) See 4.1.1(5)(d) — Parking.

(5) Removed and reserved.

(6) Doors to and in accessible spaces that are intended for passage shall comply with 4.13, except that the provisions of 4.13.9 apply only to the doors at accessible entrances to the unit itself.

- (2) Notification of the provisions for the installation of grab bars at toilets, bathtubs, and showers.
- (3) Notification that the dwelling unit is equipped to have a visual emergency alarm installed.
- (4) Identification of the location where information and instructions are available for changing the height of counters, removing cabinets and bases, installing a visual emergency alarm system, and installing grab bars.
- (5) Notification that the dwelling unit has been designed in accordance with this Uniform Federal Accessibility Standards.

In addition, the parties who will be responsible for making adaptations shall be provided with the following information:

- (1) Instructions for adjusting or replacing kitchen counter and sink heights and for removing cabinets.
- (2) A scale drawing showing methods and locations for the installation of grab bars.
- (3) A scale drawing showing the location of adjustable or replaceable counter areas and removable cabinets.
- (4) Identification of the location of any equipment and parts required for adjusting or replacing counter tops, cabinets, and sinks.
- (5) Instructions for installing a visual emergency alarm system, if the dwelling unit is equipped for such an installation.

**4.34.5\* BATHROOMS.** Accessible or adaptable bathrooms shall be on an accessible route and shall comply with the requirements of 4.34.5.

**4.34.5.1 DOORS.** Doors shall not swing into the clear floor space required for any fixture.

**4.34.5.2 WATER CLOSETS.**

- (1) Clear floor space at the water closet shall be as shown in Fig. 47(a). The water closet may be located with the clear area at either the right or left side of the toilet.
- (2) The height of the water closet shall be at least 15 in (380 mm), and no more than 19 in (485 mm), measured to the top of the toilet seat.

controls. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

(3) Grab bars. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Fig. 49. If provided, grab bars shall be installed as shown in Fig. 37 and shall comply with 4.26.

(4) Controls. Faucets and other controls shall be located as shown in Fig. 37 and shall comply with 4.27.4. In the shower stall in Fig. 35(a), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

(5) Shower unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

**4.34.5.6 BATHTUB AND SHOWER ENCLOSURES.** Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

**4.34.5.7 CLEAR FLOOR SPACE.** Clear floor space at fixtures may overlap.

**4.34.6 KITCHENS.** Accessible or adaptable kitchens and their components shall be on an accessible route and shall comply with the requirements of 4.34.6.

**4.34.6.1\* CLEARANCE.** Clearances between all opposing base cabinets, counter tops, appliances, or walls shall be 40 in (1015 mm) minimum, except in U-shaped kitchens, where such clearance shall be 60 in (1525 mm) minimum.

**4.34.6.2 CLEAR FLOOR SPACE.** A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor. Laundry equipment located in the kitchen shall comply with 4.34.7.

**4.34.6.3 CONTROLS.** All controls in kitchens shall comply with 4.27.

**4.34.6.4 WORK SURFACES.** At least one 30 in (760 mm) section of counter shall provide a work surface that complies with the following requirements (see Fig. 50):

(1) The counter shall be mounted at a maximum height of 34 in (865 mm) above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 in, 32 in, and 36 in (710 mm, 815 mm, and 915 mm), measured from the top of the counter surface.

(8) There shall be no sharp or abrasive surfaces under sinks. Hot water and drain pipes under sinks shall be insulated or otherwise covered.

**4.34.6.6\* RANGES AND COOKTOPS.** Ranges and cooktops shall comply with 4.34.6.2 and 4.34.6.3. If ovens or cooktops have knee spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by 19 in (485 mm) maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

**4.34.6.7\* OVENS.** Ovens shall comply with 4.34.6.2 and 4.34.6.3. Ovens shall be of the self-cleaning type or be located adjacent to an adjustable height counter with knee space below (see Fig. 52). For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than 10 in (255 mm) when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

**4.34.6.8\* REFRIGERATOR/FREEZER.** Refrigerator/freezers shall comply with 4.34.6.3. Provision shall be made for refrigerators which are:

- (1) Of the vertical side-by-side refrigerator/freezer type; or
- (2) Of the over-and-under type and meet the following requirements:
  - (a) Have at least 50 percent of the freezer space below 54 in (1370 mm) above the floor.
  - (b) Have 100 percent of the refrigerator space and controls below 54 in (1370 mm).

Freezers with less than 100 percent of the storage volume within the limits specified in 4.2.5 or 4.2.6 shall be the self-defrosting type.

**4.34.6.9 DISHWASHERS.** Dishwashers shall comply with 4.34.6.2 and 4.34.6.3. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

**4.34.6.10\* KITCHEN STORAGE.** Cabinets, drawers, and shelf areas shall comply with 4.25 and shall have the following features:

- (1) Maximum height shall be 48 in (1220 mm) for at least one shelf of all cabinets and storage shelves mounted above work counters (see Fig. 50).
- (2) Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

disabilities, plus at least one unit for the hearing impaired and at least one unit for the visually impaired.

*How does Subtitle D of the Housing and Community Development Act affect Section 504 compliance issues?*

It has no impact.

Subtitle D of the Housing and Community Development Act allows owners of housing originally designed for seniors to limit the number of units occupied by younger, disabled individuals to a certain percentage based on the lesser of the number of units occupied by younger, disabled persons on two specified dates. The process of selecting Subtitle D is quite detailed and not pertinent to the focus of this course. HUD approval is required.

But the Subtitle D has no impact on Section 504.

*What are some of the other requirements associated with the self-evaluation and transition plan?*

Owners are required to consult with outside individuals in the preparation of the plan, including individuals with disabilities and organizations which represent them.

*Does the management company need to have one person responsible for Section 504 compliance?*

It depends. The HUD Handbook 4350.3, Rev-1 issued June 12, 2003 requires that owners, management agents, projects or entities with 15 or more employees designate one person as Section 504 coordinator. This person will be responsible for employment matters (since Section 504 is also an employment law) as well as physical accessibility at the properties.

This represents a policy change from the statute which specifically mentions "projects" with 15 or more employees. However, HUD realized that there were not many projects that had 15 or more employees (HUD makes no distinction between full-time and part-time employees) and this resulted in pockets of both compliance and noncompliance.

By making this change and expanding the requirement to owners, management agents, projects and other entities, HUD is leaving no doubt in the minds of the industry that compliance with Section 504 is a priority matter.

*NCHM has done some self evaluation and transition plans. What are some common deficiencies you've found?*

We have done more than 1,000 self evaluation and transition plans during the past decade. While no two properties are alike, except when they were designed to be

## Chapter 4:

# Other Civil Rights Laws and Enforcement

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*If we are subject to either Section 504 and/or the Fair Housing Act, why must we be concerned about state-based civil rights laws?*

As comprehensive as each of the federal statutes are, there are some groups left out for protection which the state or local governments have taken it upon themselves to rectify. Where there is a conflict between state/local and federal law, the more stringently protective law will be applicable.

*What are some examples?*

Some state law (New York) requires handicapped parking spaces to be reserved, while federal law is silent on this issue.

Some state laws protect against discrimination on the basis of sexual preference or orientation. The federal Fair Housing Act does not extend protection on this basis.

Many state laws set a minimum requirement of 10-15% accessible parking spaces. The Uniform Federal Accessibility Standards (UFAS) does not set as high a percentage.

Housing in the city of Boston must allow pets. In the federal statutes, pets are required only in Public Housing Authorities and in federally-funded housing for the elderly.

Austin, Texas protects students; Washington, D.C. protects political affiliation; Colorado Springs, Colorado protects military status. In short, whenever housing providers decide to eliminate people from housing opportunities, the government is likely to step in and provide protection to those very people.

While we are certainly not being all-inclusive here, we must mention the newest and most controversial addition to "protected classes" at the state and/or local level: discrimination on the basis of income or income source.

*Why is this controversial?*

It is considered controversial principally by companies involved in market rate housing.

There is a long standing business practice in market rate housing to have minimum income requirements. By establishing income or source of income as a protected class, the state or local governments have taken an action which many real estate developers and management companies regard as an intrusive and obvious effort to expand the Housing Choice Voucher program (also known as the Section 8 voucher program).

***Who is responsible for the enforcement of the Fair Housing Act and Section 504?***

The Office of Fair Housing and Equal Opportunity has the lead role in enforcement of the laws, but enforcement can also be done by an agency that HUD has recognized as having “essentially equivalent” status, such as many Fair Housing Councils. And individuals who believe their housing rights have been denied can bypass all agencies and file privately in the federal district courts.

***Who can bring a complaint alleging discrimination?***

Any member of a protected class of persons, any essentially equivalent agency, or any individual who is deemed to have standing by the Court, such as a relative may file a complaint.

***What is a “Tester?”***

A “tester,” also known as a “shopper,” is a specially trained individual who typically poses as a prospective applicant or simply as someone who is interested in the housing. They are a part of the investigative team and their true purpose – evaluating whether discrimination exists – is well hidden from the housing providers.

***Isn't that illegal?***

No, it's quite legal.

***Can management ask on its application if someone is a “tester?”***

Believe it or not, some real estate professionals have recommended this but NCHM does not and feels that such a question is only asking for trouble.

***Why?***

Our position is based on the fact that those who advocate asking such a question believe it is protection against entrapment. The argument goes something like this: If we ask on our application if someone is a tester and they answer they are not, then they cannot use anything against us and if they did it would constitute entrapment.

There are numerous problems with this, not the least of which is that “entrapment” is well established as a defense in criminal cases but not in civil ones such as fair housing. Another is that this question, if asked on an application for tenancy, quite properly raises the issue of what is going on at the property that they're so concerned about. A fair housing compliance review is likely to follow.

*What happens then?*

It is HUD's general policy to attempt to resolve discrimination in a semi-formal manner known as Conciliation. If both parties agree to Conciliation, the agency with whom the complaint has been filed will act as an arbitrator in an effort to get the parties to settle the complaint prior to an investigation or finding. Conciliation continues throughout the complaint process, including up to the time the parties are in Court, if necessary.

*What happens if Conciliation is successful?*

The parties sign an agreement. The Complainant agrees to end the complaint, usually in exchange for a monetary award or some other compensatory action by the Respondent. The Respondent admits no wrongdoing and the matter will be closed. Often, HUD will require the Respondent to agree to ongoing compliance monitoring which makes many Owners nervous, but which HUD has the right to do regardless of whether an agreement exists.

*Why can't we just contact the Complainant ourselves and try to work out some arrangement?*

Because once the complaint has been filed and accepted, the Complainant is represented by HUD or the essentially equivalent agency.

*Is there a time limit for a Complainant to file an allegation of discrimination?*

The limit is one year from the most recent act of discrimination.

*If Conciliation is unsuccessful, what happens then?*

If conciliation is unsuccessful, the next step is usually a formal investigation.

*Does the investigation need to be completed within any time frame?*

The Fair Housing Act specifies that investigations must be completed within 100 days. HUD's track record on this has not been good; in 1995 it was estimated by the Department's own statistics that they failed to meet this time frame in some 90% of the cases filed, but the Courts have consistently held that housing providers have not suffered because of this failure.

*Do HUD investigators have the right to request or subpoena records from us?*

Yes, on both counts.



Within a short period of time, the resident starts receiving numerous notices for alleged infractions, some minor and some more significant.

Do an objective observer, would it not seem that the communications from management are motivated by the allegation that the manager has some form of bias?

In order to counter allegations of retaliation, management would have to show that there is absolutely no relationship between the altercation and subsequent notices.

Retaliation can also occur after someone files a complaint of discrimination with Fair Housing, and management takes actions that could be construed as resulting from the formal complaint. This "ups the ante" significantly, and it is tougher for management to defend itself from both the discrimination complaint and the subsequent charge of retaliation.

# Case Studies

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## Exercise One:

The people at your table represent the board of directors for the Could-Be-Anywhere Management Company, Inc., of Massachusetts. Your purpose in getting together is to review recent issues that the company is bringing forward for your attention. These include the following:

- A recent occupancy review indicates that one of your rental housing properties has failed to meet its obligations under the Affirmative Fair Housing Marketing Plan (AFHMP). Currently occupancy is 79% white, 12% Hispanic, 7% Asian, 1% African American and 1% chose not to self identify. There is a waiting list but, because of HUD regulations, it cannot be ascertained what percentage of the waiting list is comprised of non-white applicants/households.
- The Board received an unsigned complaint from an individual who alleged that she went to the rental office and was denied an application. She further stated that a maintenance staff member told her an apartment was available, but she was told at the rental office that there was a three year waiting list.
- A HUD review recently cited the same property for not having a tenant selection plan, and noted the application seemed to be out of date with current HUD policy.
- A memorandum to the Board from a supervisor notes that the company has received repeated telephone calls from residents indicating that they have been poorly treated in their dealings with the rental office. Specifically, they alleged the manager is rude and confrontational when any questions are raised regarding policies and procedures, and that specific maintenance personnel are very "unprofessional" when performing work-orders in the apartments.
- The property has had seven fair housing complaints in the past two years, all of which have been settled out of court.

The task of your Board is:

1. Summarize the existing problems
2. Identify the causes or potential causes
3. Develop a series of goals and objectives
4. Describe in specific detail the measures you would take to achieve your goals, with the understanding that the primary goal will be to bring the property into compliance.

## Exercise Two:

The people at your table represent the board of directors for the Could-Be-Anywhere Management Company, Inc., of Massachusetts. Your purpose in getting together is to review recent issues that the company is bringing forward for your attention. These include the following letter from HUD:

Appendix I:

**THE FAIR HOUSING ACT AS AMENDED**

**Sec. 800. [42 U.S.C. 3601 note] Short Title**

This title may be cited as the "Fair Housing Act".

**Sec. 801. [42 U.S.C. 3601] Declaration of Policy**

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

**Sec. 802. [42 U.S.C. 3602] Definitions**

As used in this subchapter--

- (a) "Secretary" means the Secretary of Housing and Urban Development.
- (b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (c) "Family" includes a single individual.
- (d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.
- (e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.
- (g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.
- (h) "Handicap" means, with respect to a person--

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

[42 U.S.C. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

**Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions**

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) Dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: **Provided**, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

**Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices**

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) That buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) Any person associated with that buyer or renter.

(iii) All premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) Reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3) (C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3) (C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3) (C).

in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance—

(A) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) Secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

#### **Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services**

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

#### **Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption**

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) Persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): **Provided**, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) Unoccupied units: **Provided**, that such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) Such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

**Sec. 808. [42 U.S.C. 3608] Administration**

(a) Authority and responsibility



(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) Containing tabulations of the number of instances (and the reasons therefore) in the preceding year in which--

(i) Investigations are not completed as required by section 810(a) (1) (B);

(ii) Determinations are not made within the time specified in section 810(g); and

(iii) Hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) Cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) Cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) Administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) Annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e) (6) applies are--

Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

**Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports**

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

**Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters**

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) The Secretary shall serve notice upon the aggrieved person acknowledging such filing and

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) The names and dates of contacts with witnesses;

(ii) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) A summary description of other pertinent records;

(iv) A summary of witness statements; and

(v) Answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(A) Within the jurisdiction of a State or local public agency; and

(B) As to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) The certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) The certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) The Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) The substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) The procedures followed by such agency;

(iii) The remedies available to such agency; and

(iv) The availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) Shall be based on the final investigative report; and

(iii) Need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) On each aggrieved person on whose behalf the complaint was filed.

**Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence**

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings

person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. --

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) Send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) Recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(1) Which is filed by the Secretary under subsection (j) after the end of such day; or

(2) Under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising there from, or any civil action under



(2) Authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrance, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

**Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General**

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. --

(1)

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

#### **Sec. 814a. Incentives for Self-Testing and Self-Correction**

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self- test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real

In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

**Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

**Sec. 819. [42 U.S.C. 3618] Authorization of appropriations**

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

**Sec. 820. [42 U.S.C. 3619] Separability of provisions**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**(Sec. 12 of 1988 Act). [42 U.S.C. 3601 note] Disclaimer of Preemptive Effect on Other Acts**

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

**(Sec. 13 of 1988 Act). [42 U.S.C. 3601 note] Effective Date and Initial Rulemaking**

(a) **Effective Date.** -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) **Initial Rulemaking.** -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

## TITLE 28, UNITED STATES CODE, AS AMENDED

### Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

### Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of-

## Appendix II:

# Draft Reasonable Accommodations Policy

*DISCLAIMER: Housing management organizations wishing to adopt and implement this policy are advised to first consult an attorney for clearance and approval. NCHM assumes no liability in connection with the implementation of this draft policy without approval by legal counsel.*

## I. INTRODUCTION

The Fair Housing Act Amendments of 1988 (24 CFR Parts 100 et seq.) mandates that housing providers shall make reasonable accommodations that are both reasonable and necessary to enable an individual with a disability to enjoy and benefit from housing. This policy implements this requirement.

## II. DEFINITIONS

The following definitions are used in connection with this policy:

- a) ACCOMMODATION. An alteration to a policy, practice or procedure.
- b) CLINICIAN: A medical doctor, psychologist, social worker or other professional who can attest to an individual's disability.
- c) DISABILITY: A physical or mental impairment that substantially limits one or more major life activities. This applies to individuals, and extends to the individual having a record of such an impairment, as well as individual who is regarded as having such impairment.
- d) FAIR HOUSING ACT: The Fair Housing Act as amended in 1988.
- e) REASONABLE: A determination made by the housing owner or management that a requested accommodation does not constitute an undue financial and administrative burden, or a fundamental alteration of the program.

## III. APPLICABILITY

This policy is solely applicable to residents with disabilities and to prospective residents/applicants for tenancy with disabilities.

## IV. PROCESS

1. Any individual who is eligible to request a reasonable accommodation (see Section III above) is welcome to do so.
2. A request for reasonable accommodation must be requested in writing unless, for reasons due to disability, a written request cannot be executed.
3. The request must contain as much information as possible about the accommodation.

**DRAFT VERIFICATION LETTER**

Dear Physician/Clinician:

Your patient, \_\_\_\_\_, has made a request of this company for a reasonable accommodation or modification pursuant to the provisions of the Fair Housing Act Amendments (24 CFR Parts 100.203 and 100.204). In order to verify the need for the requested accommodation, which is specifically \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

we are asking the following questions of you. Please keep in mind that reasonable accommodations and reasonable modifications may involve the expenditure of federal housing funds and are a matter of compliance with federal law. Therefore, we ask that your answers be carefully considered. We are attaching a release for the disclosure of the requested information which has been signed by the above named patient.

1. In your professional opinion, does the individual/patient named herein meet the following definition of an "individual with a disability:" 1. Has a physical or mental impairment that substantially limits one or more major life activities OR; 2. Has a record of such an impairment OR; 3. Is regarded as having such impairment.

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

2. In your professional opinion, is the requested accommodation or modification necessary as a result of the disability?

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

\_\_\_\_\_  
Signature of Physician/Clinician  
State License number (if applicable): \_\_\_\_\_

Thank you for your kind assistance in this important matter. Our company is committed to insuring full compliance with all applicable civil rights regulations, and your response is both helpful and greatly appreciated.

Sincerely,  
NAME OF COMPANY REPRESENTATIVE



# Certificate of Attendance

Presented to

Cartina L. Pinkney

---

The person named above certifies viewing in its entirety  
the "*2018 Basics of the Fair Housing Act*" webinar  
training presented by Kristina Miller  
HUD-Office of Fair Housing and Equal Opportunity



Date Viewed: 03/09/20



# Certificate of Attendance

*Cartina Pinkney*

successfully completed 7 hours of  
Fair Housing Act and Violence Against Women Act  
Compliance Training  
May 15, 2018  
Trenton, New Jersey



NEW JERSEY HOUSING  
AND MORTGAGE  
FINANCE AGENCY  
WWW.NJHOUSING.GOV

*M E English*  
President, E&A Team, Inc.



HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**CARTINA L. PINKNEY**

For Your Participation in the July 12, 2017 Fair Housing  
Webinar Training



**KRISTINA MILLER**

**JULY 12, 2017**

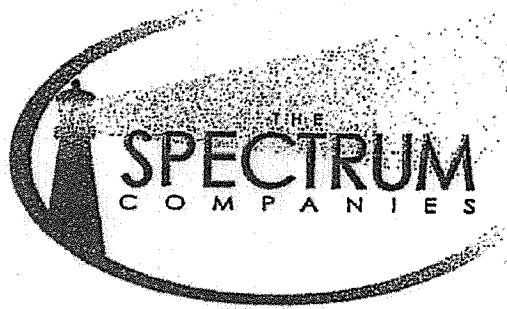
PRESENTER

DATE

***This is to Certify That***

***Cartina L. Pinkney***

***Is a Certified Credit Compliance Professional – C3P***



**This designation signifies that the recipient has a comprehensive understanding of the Low Income Housing Tax Credit Program and Has completed 3 hours (CEU's) of training.**

***C5P***

**July, 2017**

**Steven L. Rosenblatt, President**

A handwritten signature in black ink, appearing to be 'SR', is located below the printed name of Steven L. Rosenblatt.

HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**LAUREN CALDERON**

For Your Participation in the May 16, 2018  
Fair Housing Training



**KRISTINA MILLER**      **MAY 16, 2018**

PRESENTER

DATE

HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**CARTINA L. PINKNEY**

For Your Participation in the July 12, 2017 Fair Housing  
Webinar Training



**KRISTINA MILLER**

**JULY 12, 2017**

PRESENTER

DATE



# Certificate of Completion


*This certifies that*

**Lauren Calderon**

---

*has completed the Marketing Training  
offered by HPD Marketing & Affordability Oversight Program.*



  
Victor M. Hernandez, Director  
HPD Marketing &  
Affordability Oversight

**November 17, 2017**

Date

Note to all applicants/respondents: This form was developed with Nuance, the official HUD software for the creation of HUD forms. HUD has made available instructions for downloading a free installation of a Nuance reader that allows the user to fill-in and save this form in Nuance. Please see <http://portal.hud.gov/hudportal/documents/huddoc?id=nuancereaderinstall.pdf> for the instructions. Using Nuance software is the only means of completing this form.

**Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing**

**U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity**

OMB Approval No. 2529-0013  
(exp.1/31/2021)

<b>1a. Project Name &amp; Address (including City, County, State &amp; Zip Code)</b>	<b>1b. Project Contract Number</b>	<b>1c. No. of Units</b>
	<b>1d. Census Tract</b>	
	<b>1e. Housing/Expanded Housing Market Area</b>	

**1f. Managing Agent Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address**

**1g. Application/Owner/Developer Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address**

**1h. Entity Responsible for Marketing (check all that apply)**

Owner      Agent      Other (specify)

Position, Name (if known), Address ( including City, County, State & Zip Code), Telephone Number & Email Address

**1i. To whom should approval and other correspondence concerning this AFHMP be sent? Indicate Name, Address (including City, State & Zip Code), Telephone Number & E-Mail Address.**

**2a. Affirmative Fair Housing Marketing Plan**

Plan Type      Date of the First Approved AFHMP:

Reason(s) for current update:

**2b. HUD-Approved Occupancy of the Project (check all that apply)**

Elderly      Family      Mixed (Elderly/Disabled)      Disabled

**2c. Date of Initial Occupancy**

**2d. Advertising Start Date**

Advertising must begin *at least* 90 days prior to initial or renewed occupancy for new construction and substantial rehabilitation projects.

Date advertising began or will begin

**For existing projects, select below the reason advertising will be used:**

To fill existing unit vacancies	
To place applicants on a waiting list	(which currently has _____ individuals)
To reopen a closed waiting list	(which currently has _____ individuals)

---

**3a. Demographics of Project and Housing Market Area**

Complete and submit Worksheet 1.

---

**3b. Targeted Marketing Activity**

Based on your completed Worksheet 1, indicate which demographic group(s) in the housing market area is/are *least* likely to apply for the housing without special outreach efforts. (check all that apply)

White	American Indian or Alaska Native	Asian	Black or African American
Native Hawaiian or Other Pacific Islander		Hispanic or Latino	Persons with Disabilities
Families with Children	Other ethnic group, religion, etc. (specify)		

---

**4a. Residency Preference**

Is the owner requesting a residency preference? If yes, complete questions 1 through 5.

If no, proceed to Block 4b.

(1) Type

(2) Is the residency preference area:

The same as the AFHMP housing/expanded housing market area as identified in Block 1e?

The same as the residency preference area of the local PHA in whose jurisdiction the project is located?

(3) What is the geographic area for the residency preference?

(4) What is the reason for having a residency preference?

(5) How do you plan to periodically evaluate your residency preference to ensure that it is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a)?

Complete and submit Worksheet 2 when requesting a residency preference (see also 24 CFR 5.655(c)(1)) for residency preference requirements. The requirements in 24 CFR 5.655(c)(1) will be used by HUD as guidelines for evaluating residency preferences consistent with the applicable HUD program requirements. See also HUD Occupancy Handbook (4350.3) Chapter 4, Section 4.6 for additional guidance on preferences.

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**4b. Proposed Marketing Activities: Community Contacts**

Complete and submit Worksheet 3 to describe your use of community contacts to market the project to those least likely to apply.

**4c. Proposed Marketing Activities: Methods of Advertising**

Complete and submit Worksheet 4 to describe your proposed methods of advertising that will be used to market to those least likely to apply. Attach copies of advertisements, radio and television scripts, Internet advertisements, websites, and brochures, etc.

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**5a. Fair Housing Poster**

The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Check below all locations where the Poster will be displayed.

Rental Office                  Real Estate Office                  Model Unit                  Other (specify)

---

**5b. Affirmative Fair Housing Marketing Plan**

The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check below all locations where the AFHMP will be made available.

Rental Office                  Real Estate Office                  Model Unit                  Other (specify)

---

**5c. Project Site Sign**

Project Site Signs, if any, must display in a conspicuous position the HUD approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Check below all locations where the Project Site Sign will be displayed. Please submit photos of Project signs.

Rental Office                  Real Estate Office                  Model Unit                  Entrance to Project                  Other (specify)

The size of the Project Site Sign will be                  x  
The Equal Housing Opportunity logo or slogan or statement will be                  x

---

**6. Evaluation of Marketing Activities**

Explain the evaluation process you will use to determine whether your marketing activities have been successful in attracting individuals least likely to apply, how often you will make this determination, and how you will make decisions about future marketing based on the evaluation process.

**7a. Marketing Staff**

What staff positions are/will be responsible for affirmative marketing?

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**7b. Staff Training and Assessment: AFHMP**

- (1) Has staff been trained on the AFHMP?
  - (2) Has staff been instructed in writing and orally on non-discrimination and fair housing policies as required by 24 CFR 200.620(c)?
  - (3) If yes, who provides instruction on the AFHMP and Fair Housing Act, and how frequently?
  
  - (4) Do you periodically assess staff skills on the use of the AFHMP and the application of the Fair Housing Act?
  - (5) If yes, how and how often?
- 

**7c. Tenant Selection Training/Staff**

- (1) Has staff been trained on tenant selection in accordance with the project's occupancy policy, including any residency preferences?
  
  - (2) What staff positions are/will be responsible for tenant selection?
- 

**7d. Staff Instruction/Training:**

Describe AFHM/Fair Housing Act staff training, already provided or to be provided, to whom it was/will be provided, content of training, and the dates of past and anticipated training. Please include copies of any AFHM/Fair Housing staff training materials.

**8. Additional Considerations** Is there anything else you would like to tell us about your AFHMP to help ensure that your program is marketed to those least likely to apply for housing in your project? Please attach additional sheets, as needed.

**9. Review and Update**

By signing this form, the applicant/respondent agrees to implement its AFHMP, and to review and update its AFHMP in accordance with the instructions to item 9 of this form in order to ensure continued compliance with HUD's Affirmative Fair Housing Marketing Regulations (see 24 CFR Part 200, Subpart M). I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (See 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

*Chanell Mines 1/6/2021*  
 Signature of person submitting this Plan & Date of Submission (mm/dd/yyyy)

Chanell Mines  
 Name (type or print)

Title & Name of Company

For HUD-Office of Housing Use Only		For HUD-Office of Fair Housing and Equal Opportunity Use Only	
Reviewing Official:		Approval	Disapproval
Signature & Date (mm/dd/yyyy)		Signature & Date (mm/dd/yyyy)	
Name (type or print)		Name (type or print)	
Title		Title	

Public reporting burden for this collection of information is estimated to average six (6) hours per initial response, and four (4) hours for updated plans, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

**Purpose of Form:** All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (see 24 CFR 200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR 200.625, and in accordance with the requirements in 24 CFR 200.620. The purpose of this AFHMP is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning should be part of all new construction, substantial rehabilitation, and existing project marketing and advertising activities.

An AFHM program, as specified in this Plan, shall be in effect for each multifamily project throughout the life of the mortgage (24 CFR 200.620(a)). The AFHMP, once approved by HUD, must be made available for public inspection at the sales or rental offices of the respondent (24 CFR 200.625) and may not be revised without HUD approval. This form contains no questions of a confidential nature.

**Applicability:** The form and worksheets must be completed and submitted by all FHA subsidized and unsubsidized multifamily housing program applicants.

#### **INSTRUCTIONS:**

**Send completed form and worksheets to your local HUD Office, Attention: Director, Office of Housing**

#### **Part 1: Applicant/Respondent and Project**

**Identification.** Blocks 1a, 1b, 1c, 1g, 1h, and 1i are self-explanatory.

Block 1d- Respondents may obtain the Census tract number from the U.S. Census Bureau (<http://factfinder2.census.gov/main.html>) when completing Worksheet One.

Block 1e- Respondents should identify both the housing market area and the expanded housing market area for their multifamily housing projects. Use abbreviations if necessary. A **housing market area** is the area from which a multifamily housing project owner/agent may reasonably expect to draw a substantial number of its tenants. This could be a county or Metropolitan Division. The U.S. Census Bureau provides a range of levels to draw from.

An **expanded housing market area** is a larger geographic area, such as a Metropolitan Division or a Metropolitan Statistical Area, which may provide additional demographic diversity in terms of race, color, national origin, religion, sex, familial status, or disability.

Block 1f- The applicant should complete this block only if a Managing Agent (the agent cannot be the applicant) is implementing the AFHMP.

#### **Part 2: Type of AFHMP**

Block 2a- Respondents should indicate the status of the AFHMP, i.e., initial or updated, as well as the date of the first approved AFHMP. Respondents should also provide the reason (s) for the current update, whether the update is based on the five-year review or due to significant changes in project or local demographics (See instructions for Part 9).

Block 2b- Respondents should identify all groups HUD has approved for occupancy in the subject project, in accordance with the contract, grant, etc.

Block 2c- Respondents should specify the date the project was/will be first occupied.

Block 2d- For new construction and substantial rehabilitation projects, advertising must begin at least 90 days prior to initial occupancy. In the case of existing projects, respondents should indicate whether the advertising will be used to fill existing vacancies, to place individuals on the project's waiting list, or to re-open a closed waiting list. Please indicate how many people are on the waiting list when advertising begins.

### **Part 3 Demographics and Marketing Area.**

"Least likely to apply" means that there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Block 3a - Using Worksheet 1, the respondent should indicate the demographic composition of the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area. The applicable housing market area and expanded housing market area should be indicated in Block 1e. Compare groups within rows/across columns on Worksheet 1 to identify any under-represented group(s) relative to the surrounding housing market area and expanded housing market area, i.e., those group(s) "least likely to apply" for the housing without targeted outreach and marketing. If there is a particular group or subgroup with members of a protected class that has an identifiable presence in the housing market area, but is not included in Worksheet 1, please specify under "Other."

Respondents should use the most current demographic data from the U.S. Census or another official source such as a local government planning office. Please indicate the source of your data in Part 8 of this form.

Block 3b - Using the information from the completed Worksheet 1, respondents should identify the demographic group(s) least likely to apply for the housing without special outreach efforts by checking all that apply.

### **Part 4 - Marketing Program and Residency Preference (if any).**

Block 4a - A residency preference is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). Respondents should indicate whether a residency preference is being utilized, and if so, respondents should specify if it is new, revised, or continuing. If a respondent wishes to utilize a residency preference, it must state the preference area (and provide a map delineating the precise area) and state the reason for having such a preference. The respondent must ensure that the preference is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a) (see 24 CFR 5.655(c)(1)).

Respondents should use Worksheet 2 to show how the percentage of the eligible population living or working in the residency preference area compares to that of residents of the project, project applicant data, census tract, housing market area, and expanded housing market area. The percentages would be the same as shown on completed Worksheet 1.

Block 4b - Using Worksheet 3, respondents should describe their use of community contacts to help market the project to those least likely to apply. This table should include the name of a contact person, his/her address, telephone number, previous experience working with the target population(s), the approximate date contact was/will be initiated, and the specific role the community contact will play in assisting with affirmative fair housing marketing or outreach.

Block 4c - Using Worksheet 4, respondents should describe their proposed method(s) of advertising to market to those least likely to apply. This table should identify each media option, the reason for choosing this media, and the language of the advertisement. Alternative format(s) that will be used to reach persons with disabilities, and logo(s) that will appear on the various materials (as well as their size) should be described.

**Please attach a copy of the advertising or marketing material.**

### **Part 5 – Availability of the Fair Housing Poster, AFHMP, and Project Site Sign.**

Block 5a - The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Respondents should indicate all locations where the Fair Housing Poster will be displayed.

Block 5b -The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check all of the locations where the AFHMP will be available.

Block 5c -The Project Site Sign must display in a conspicuous position the HUD-approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Respondents should indicate where the Project Site Sign will be displayed, as well as the size of the Sign and the size of the logo, slogan, or statement. **Please submit photographs of project site signs.**

## **Part 6 - Evaluation of Marketing Activities.**

Respondents should explain the evaluation process to be used to determine if they have been successful in attracting those individuals identified as least likely to apply. Respondents should also explain how they will make decisions about future marketing activities based on the evaluations.

## **Part 7- Marketing Staff and Training.**

Block 7a - Respondents should identify staff positions that are/will be responsible for affirmative marketing.

Block 7b - Respondents should indicate whether staff has been trained on the AFHMP and Fair Housing Act.

Please indicate who provides the training and how frequently. In addition, respondents should specify whether they periodically assess staff members' skills in using the AFHMP and in applying the Fair Housing Act. They should state how often they assess employee skills and how they conduct the assessment.

Block 7c - Respondents should indicate whether staff has been trained on tenant selection in accordance with the project's occupancy policy, including residency preferences (if any). Respondents should also identify those staff positions that are/will be responsible for tenant selection.

Block 7d - Respondents should include copies of any written materials related to staff training, and identify the dates of past and anticipated training.

## **Part 8 - Additional Considerations.**

Respondents should describe their efforts not previously mentioned that were/are planned to attract those individuals least likely to apply for the subject housing.

## **Part 9 - Review and Update.**

By signing the respondent assumes responsibility for implementing the AFHMP. Respondents must review their AFHMP every five years or when the local Community Development jurisdiction's Consolidated Plan is updated, or when there are significant changes in the demographics of the project or the local housing market area. When reviewing the plan, the respondent should consider the current demographics of the housing market area to determine if there have been demographic changes in the population in terms of race, color, national origin, religion, sex, familial status, or disability. The respondent will then determine if the population least likely to apply for the housing is still the population identified in the AFHMP, whether the advertising and publicity cited in the current AFHMP are still appropriate, or whether advertising sources should be modified or expanded. Even if the demographics of the housing market area have not changed, the respondent should determine if the outreach currently being performed is reaching those it is intended to reach as measured by project occupancy and applicant data. If not, the AFHMP should be updated. The revised AFHMP must be submitted to HUD for approval. HUD may review whether the affirmative marketing is actually being performed in accordance with the AFHMP. If based on their review, respondents determine the AFHMP does not need to be revised, they should maintain a file documenting what was reviewed, what was found as a result of the review, and why no changes were required. HUD may review this documentation.

## **Notification of Intent to Begin Marketing.**

No later than 90 days prior to the initiation of rental marketing activities, the respondent must submit notification of intent to begin marketing. The notification is required by the AFHMP Compliance Regulations (24 CFR 108.15). The Notification is submitted to the Office of Housing in the HUD Office servicing the locality in which the proposed housing will be located. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the monitoring office will review any previously approved plan and may schedule a pre-occupancy conference. Such conference will be held prior to initiation of sales/rental marketing activities. At this conference, the previously approved AFHMP will be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification prior to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

OMB approval of the AFHMP includes approval of this notification procedure as part of the AFHMP. The burden hours for such notification are included in the total designated for this AFHMP form.

**Worksheet 1: Determining Demographic Groups Least Likely to Apply for Housing Opportunities  
(See AFHMP, Block 3b)**

In the respective columns below, indicate the percentage of demographic groups among the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area (See instructions to Block 1e). If you are a new construction or substantial rehabilitation project and do not have residents or project applicant data, only report information for census tract, housing market area, and expanded market area. The purpose of this information is to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability. If there is significant under-representation of any demographic group among project residents or current applicants in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. Please indicate under-represented groups in Block 3b of the AFHMP. **Please attach maps showing both the housing market area and the expanded housing market area.**

<b>Demographic Characteristics</b>	<b>Project's Residents</b>	<b>Project's Applicant Data</b>	<b>Census Tract</b>	<b>Housing Market Area</b>	<b>Expanded Housing Market Area</b>
% White					
% Black or African American					
% Hispanic or Latino					
% Asian					
% American Indian or Alaskan Native					
% Native Hawaiian or Pacific Islander					
% Persons with Disabilities					
% Families with Children under the age of 18					
Other (specify)					

Worksheet 2: Establishing a Residency Preference Area (See AFHMP, Block 4a)

Complete this Worksheet if you wish to continue, revise, or add a residency preference, which is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). If a residency preference is utilized, the preference must be in accordance with the non-discrimination and equal opportunity requirements contained in 24 CFR 5.105(a). This Worksheet will help show how the percentage of the population in the residency preference area compares to the demographics of the project's residents, applicant data, census tract, housing market area, and expanded housing market area. **Please attach a map clearly delineating the residency preference geographical area.**

Demographic Characteristics	Project's Residents (as determined in Worksheet 1)	Project's Applicant Data (as determined in Worksheet 1)	Census Tract (as determined in Worksheet 1)	Housing Market Area (as determined in Worksheet 1)	Expanded Housing Market Area (as determined in Worksheet 1)	Residency Preference Area (if applicable)
% White						
% Black or African American						
% Hispanic or Latino						
% Asian						
% American Indian or Alaskan Native						
% Native Hawaiian or Pacific Islander						
% Persons with Disabilities						
% Families with Children under the age of 18						
Other (specify)						

*NO RESIDENCY PREFERENCE*



Worksheet 3: Proposed Marketing Activities –Community Contacts (See AFHMP, Block 4b)

For each targeted marketing population designated as least likely to apply in Block 3b, identify at least one community contact organization you will use to facilitate outreach to the particular population group. This could be a social service agency, religious body, advocacy group, community center, etc. State the names of contact persons, their addresses, their telephone numbers, their previous experience working with the target population, the approximate date contact was/will be initiated, and the specific role they will play in assisting with the affirmative fair housing marketing. Please attach additional pages if necessary.

Targeted Population(s)	Community Contact(s), including required information noted above.

Worksheet 4: Proposed Marketing Activities – Methods of Advertising (See AFHMP, Block 4c)

Complete the following table by identifying your targeted marketing population(s), as indicated in Block 3b, as well as the methods of advertising that will be used to market to that population. For each targeted population, state the means of advertising that you will use as applicable to that group and the reason for choosing this media. In each block, in addition to specifying the media that will be used (e.g., name of newspaper, television station, website, location of bulletin board, etc.) state any language(s) in which the material will be provided, identify any alternative format(s) to be used (e.g. Braille, large print, etc.), and specify the logo(s) (as well as size) that will appear on the various materials. Attach additional pages, if necessary, for further explanation. Please attach a copy of the advertising or marketing material.

Targeted Population(s)→ Methods of Advertising ↓	Targeted Population:	Targeted Population:	Targeted Population:
<b>Newspaper(s)</b>			
<b>Radio Station(s)</b>			
<b>TV Station(s)</b>			
<b>Electronic Media</b>			
<b>Bulletin Boards</b>			
<b>Brochures, Notices, Flyers</b>			
<b>Other (specify)</b>			

## **RICHMOND TIMES DISPATCH**

- White
- English language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **TIDEWATER HISPANIC NEWS**

- Hispanic
- Spanish language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **[www.asianfortuneneews.com](http://www.asianfortuneneews.com)**

- Asian
- English and Chinese language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **NATIVENEWSONLINE.NET**

- American Indian or Alaskan Native
- English language will be used
- The Equal Housing Opportunity and Wheelchair Accessible logos will be used.
- The size of logo will be 1"x1

## **FLYERS**

- All Target Groups
- The English, Spanish and Chinese Languages will be used.
- The size of logo will be 1"x1



## COMMUNITY CONTACT LETTER

Date \_\_\_\_\_

Subject: Affordable Housing Open for Applications

To Whom It May Concern,

We wish to inform you that Petersburg East Apartments II (an affordable housing community) located at 110 Croatan Drive Petersburg, VA 23803 is now accepting applications to be added to the waiting list.

Qualifications will be based on Section 8 Federal Guidelines. Interested persons may obtain an application by calling or by writing or visiting:

**Petersburg East Apartments II  
110 Croatan Drive  
Petersburg, VA 23803  
804-733-3657**

Application can be obtained between the hours of 10:00am and 4:00pm, Monday thru Friday. Completed application can be returned by regular mail or in person.

Sincerely,

Property Manager



DPO5 PETERSBURG COUNTY

Petersburg city, Virginia

**Label**

SEX AND AGE

Total population	31,362	*****	31,362	(X)
Male	14,294	±152	45.6%	±0.5
Female	17,068	±152	54.4%	±0.5
Sex ratio (males per 100 females)	83.7	±1.6	(X)	(X)
Under 5 years	2,283	±101	7.3%	±0.3
5 to 9 years	1,928	±307	6.1%	±1.0
10 to 14 years	1,513	±280	4.8%	±0.9
15 to 19 years	1,534	±115	4.9%	±0.4
20 to 24 years	2,368	±107	7.6%	±0.3
25 to 34 years	4,999	±141	15.9%	±0.4
35 to 44 years	3,211	±91	10.2%	±0.3
45 to 54 years	4,008	±67	12.8%	±0.2
55 to 59 years	2,013	±224	6.4%	±0.7
60 to 64 years	2,264	±222	7.2%	±0.7
65 to 74 years	3,006	±44	9.6%	±0.1
75 to 84 years	1,576	±150	5.0%	±0.5
85 years and over	659	±145	2.1%	±0.5
Median age (years)	38.1	±0.9	(X)	(X)
Under 18 years	6,702	±82	21.4%	±0.3
16 years and over	25,358	±131	80.9%	±0.4
18 years and over	24,660	±82	78.6%	±0.3
21 years and over	23,658	±220	75.4%	±0.7
62 years and over	6,428	±187	20.5%	±0.6
65 years and over	5,241	±63	16.7%	±0.2
18 years and over	24,660	±82	24,660	(X)
Male	10,907	±93	44.2%	±0.2
Female	13,753	±34	55.8%	±0.2
Sex ratio (males per 100 females)	79.3	±0.8	(X)	(X)
65 years and over	5,241	±63	5,241	(X)
Male	1,971	±22	37.6%	±0.5
Female	3,270	±57	62.4%	±0.5
Sex ratio (males per 100 females)	60.3	±1.2	(X)	(X)

RACE

Total population	31,362	*****	31,362	(X)
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One race	30,641	±177	97.7%	±0.6
Two or more races	721	±177	2.3%	±0.6
One race	30,641	±177	97.7%	±0.6
White	5,473	±277	17.5%	±0.9
Black or African American	24,044	±255	76.7%	±0.8
American Indian and Alaska Native	74	±43	0.2%	±0.1
Cherokee tribal grouping	0	±26	0.0%	±0.1
Chippewa tribal grouping	0	±26	0.0%	±0.1
Navajo tribal grouping	0	±26	0.0%	±0.1
Sioux tribal grouping	0	±26	0.0%	±0.1
Asian	292	±73	0.9%	±0.2
Asian Indian	69	±44	0.2%	±0.1
Chinese	0	±26	0.0%	±0.1
Filipino	39	±42	0.1%	±0.1
Japanese	46	±48	0.1%	±0.2
Korean	64	±54	0.2%	±0.2
Vietnamese	0	±26	0.0%	±0.1
Other Asian	74	±61	0.2%	±0.2
Native Hawaiian and Other Pacific Islander	26	±31	0.1%	±0.1
Native Hawaiian	4	±7	0.0%	±0.1
Guamanian or Chamorro	3	±6	0.0%	±0.1
Samoan	19	±31	0.1%	±0.1
Other Pacific Islander	0	±26	0.0%	±0.1
Some other race	732	±336	2.3%	±1.1
Two or more races	721	±177	2.3%	±0.6
White and Black or African American	429	±167	1.4%	±0.5
White and American Indian and Alaska Native	21	±22	0.1%	±0.1
White and Asian	102	±81	0.3%	±0.3
Black or African American and American Indian and Alaska Native	45	±44	0.1%	±0.1
Race alone or in combination with one or more				
Total population	31,362	*****	31,362	(X)
White	6,097	±340	19.4%	±1.1
Black or African American	24,577	±202	78.4%	±0.6
American Indian and Alaska Native	185	±80	0.6%	±0.3
Asian	443	±18	1.4%	±0.1
Native Hawaiian and Other Pacific Islander	82	±82	0.3%	±0.3
Some other race	764	±332	2.4%	±1.1

## HISPANIC OR LATINO AND RACE

Total population	31,362	*****	31,362	(X)
Hispanic or Latino (of any race)	1,536	*****	4.9%	*****
Mexican	973	±243	3.1%	±0.8
Puerto Rican	368	±210	1.2%	±0.7
Cuban	0	±26	0.0%	±0.1
Other Hispanic or Latino	195	±101	0.6%	±0.3
Not Hispanic or Latino	29,826	*****	95.1%	*****
White alone	4,726	±26	15.1%	±0.1
Black or African American alone	23,926	±235	76.3%	±0.7
American Indian and Alaska Native alc	74	±43	0.2%	±0.1
Asian alone	281	±68	0.9%	±0.2
Native Hawaiian and Other Pacific Isla	26	±31	0.1%	±0.1
Some other race alone	118	±165	0.4%	±0.5
Two or more races	675	±172	2.2%	±0.5
Two races including Some other rac	9	±15	0.0%	±0.1
Two races excluding Some other rac	666	±176	2.1%	±0.6
Total housing units	16,367	±90	(X)	(X)

## CITIZEN, VOTING AGE POPULATION

Citizen, 18 and over population	24,051	±205	24,051	(X)
Male	10,565	±147	43.9%	±0.3
Female	13,486	±103	56.1%	±0.3

DPO5 PETERSBURG COUNTY

Census Tract 8101, Petersburg city, Virginia

**Label**

**SEX AND AGE**

Total population	2,716	±450	2,716	(X)
Male	1,291	±245	47.5%	±4.6
Female	1,425	±266	52.5%	±4.6
Sex ratio (males per 100 females)	90.6	±16.6	(X)	(X)
Under 5 years	233	±128	8.6%	±4.5
5 to 9 years	160	±117	5.9%	±4.0
10 to 14 years	116	±97	4.3%	±3.3
15 to 19 years	232	±142	8.5%	±4.8
20 to 24 years	365	±143	13.4%	±5.0
25 to 34 years	384	±197	14.1%	±6.4
35 to 44 years	354	±156	13.0%	±5.6
45 to 54 years	258	±100	9.5%	±3.5
55 to 59 years	157	±87	5.8%	±3.0
60 to 64 years	203	±74	7.5%	±3.2
65 to 74 years	171	±75	6.3%	±3.1
75 to 84 years	61	±45	2.2%	±1.7
85 years and over	22	±22	0.8%	±0.8
Median age (years)	32.3	±6.2	(X)	(X)
Under 18 years	646	±247	23.8%	±6.6
16 years and over	2,194	±365	80.8%	±7.6
18 years and over	2,070	±305	76.2%	±6.6
21 years and over	1,766	±276	65.0%	±7.0
62 years and over	360	±105	13.3%	±4.6
65 years and over	254	±91	9.4%	±3.7
18 years and over	2,070	±305	2,070	(X)
Male	947	±211	45.7%	±5.8
Female	1,123	±167	54.3%	±5.8
Sex ratio (males per 100 females)	84.3	±19.6	(X)	(X)
65 years and over	254	±91	254	(X)
Male	95	±60	37.4%	±17.7
Female	159	±67	62.6%	±17.7
Sex ratio (males per 100 females)	59.7	±46.7	(X)	(X)

**RACE**

Total population	2,716	±450	2,716	(X)
One race	2,673	±460	98.4%	±1.8



Two or more races	43	±48	1.6%	±1.8
One race	2,673	±460	98.4%	±1.8
White	132	±79	4.9%	±3.0
Black or African American	2,449	±483	90.2%	±6.2
American Indian and Alaska Native	0	±12	0.0%	±1.3
Cherokee tribal grouping	0	±12	0.0%	±1.3
Chippewa tribal grouping	0	±12	0.0%	±1.3
Navajo tribal grouping	0	±12	0.0%	±1.3
Sioux tribal grouping	0	±12	0.0%	±1.3
Asian	0	±12	0.0%	±1.3
Asian Indian	0	±12	0.0%	±1.3
Chinese	0	±12	0.0%	±1.3
Filipino	0	±12	0.0%	±1.3
Japanese	0	±12	0.0%	±1.3
Korean	0	±12	0.0%	±1.3
Vietnamese	0	±12	0.0%	±1.3
Other Asian	0	±12	0.0%	±1.3
Native Hawaiian and Other Pacific Islander	0	±12	0.0%	±1.3
Native Hawaiian	0	±12	0.0%	±1.3
Guamanian or Chamorro	0	±12	0.0%	±1.3
Samoan	0	±12	0.0%	±1.3
Other Pacific Islander	0	±12	0.0%	±1.3
Some other race	92	±133	3.4%	±5.0
Two or more races	43	±48	1.6%	±1.8
White and Black or African American	0	±12	0.0%	±1.3
White and American Indian and Alaska Native	8	±12	0.3%	±0.5
White and Asian	13	±25	0.5%	±0.9
Black or African American and American Indian and AI	0	±12	0.0%	±1.3
Race alone or in combination with one or more other races				
Total population	2,716	±450	2,716	(X)
White	153	±80	5.6%	±3.1
Black or African American	2,471	±474	91.0%	±5.7
American Indian and Alaska Native	8	±12	0.3%	±0.5
Asian	13	±25	0.5%	±0.9
Native Hawaiian and Other Pacific Islander	0	±12	0.0%	±1.3
Some other race	114	±145	4.2%	±5.4
HISPANIC OR LATINO AND RACE				
Total population	2,716	±450	2,716	(X)
Hispanic or Latino (of any race)	114	±145	4.2%	±5.4

Mexican	8	±12	0.3%	±0.5
Puerto Rican	106	±142	3.9%	±5.3
Cuban	0	±12	0.0%	±1.3
Other Hispanic or Latino	0	±12	0.0%	±1.3
Not Hispanic or Latino	2,602	±475	95.8%	±5.4
White alone	132	±79	4.9%	±3.0
Black or African American alone	2,449	±483	90.2%	±6.2
American Indian and Alaska Native alone	0	±12	0.0%	±1.3
Asian alone	0	±12	0.0%	±1.3
Native Hawaiian and Other Pacific Islander alone	0	±12	0.0%	±1.3
Some other race alone	0	±12	0.0%	±1.3
Two or more races	21	±28	0.8%	±1.0
Two races including Some other race	0	±12	0.0%	±1.3
Two races excluding Some other race, and Three or	21	±28	0.8%	±1.0
Total housing units	1,280	±66	(X)	(X)
CITIZEN, VOTING AGE POPULATION				
Citizen, 18 and over population	2,070	±305	2,070	(X)
Male	947	±211	45.7%	±5.8
Female	1,123	±167	54.3%	±5.8

## DPO2 PETERSBURG COUNTY

## Petersburg city, Virginia

## Label

## HOUSEHOLDS BY TYPE

Total households	13,165	±351	13,165	(X)
Married-couple family	2,842	±321	21.6%	±2.3
With own children of the householder under 18 years	790	±201	6.0%	±1.5
Cohabiting couple household	862	±194	6.5%	±1.5
With own children of the householder under 18 years	185	±90	1.4%	±0.7
Male householder, no spouse/partner present	3,069	±269	23.3%	±2.0
With own children of the householder under 18 years	196	±93	1.5%	±0.7
Householder living alone	2,284	±245	17.3%	±1.8
65 years and over	562	±123	4.3%	±0.9
Female householder, no spouse/partner present	6,392	±362	48.6%	±2.4
With own children of the householder under 18 years	1,310	±286	10.0%	±2.2
Householder living alone	3,306	±322	25.1%	±2.2
65 years and over	1,209	±176	9.2%	±1.3
Households with one or more people under 18 years	3,182	±333	24.2%	±2.5
Households with one or more people 65 years and over	3,906	±235	29.7%	±1.8
Average household size	2.33	±0.06	(X)	(X)
Average family size	3.28	±0.14	(X)	(X)
RELATIONSHIP				
Population in households	30,673	±200	30,673	(X)
Householder	13,165	±351	42.9%	±1.1
Spouse	2,795	±324	9.1%	±1.0
Unmarried partner	911	±201	3.0%	±0.7
Child	8,795	±543	28.7%	±1.8
Other relatives	3,532	±571	11.5%	±1.9
Other nonrelatives	1,475	±361	4.8%	±1.2
MARITAL STATUS				
Males 15 years and over	11,379	±102	11,379	(X)
Never married	5,927	±353	52.1%	±3.1
Now married, except separated	3,262	±359	28.7%	±3.1
Separated	481	±170	4.2%	±1.5
Widowed	319	±101	2.8%	±0.9
Divorced	1,390	±185	12.2%	±1.6
Females 15 years and over	14,259	±77	14,259	(X)
Never married	6,308	±265	44.2%	±1.9
Now married, except separated	3,222	±345	22.6%	±2.4
Separated	807	±198	5.7%	±1.4
Widowed	1,860	±214	13.0%	±1.5
Divorced	2,062	±231	14.5%	±1.6
FERTILITY				
Number of women 15 to 50 years old who had a birth in the past 12 months	332	±133	332	(X)
Unmarried women (widowed, divorced, and never married)	198	±99	59.6%	±21.0
Per 1,000 unmarried women	35	±17	(X)	(X)
Per 1,000 women 15 to 50 years old	43	±17	(X)	(X)
Per 1,000 women 15 to 19 years old	30	±45	(X)	(X)
Per 1,000 women 20 to 34 years old	52	±26	(X)	(X)
Per 1,000 women 35 to 50 years old	36	±31	(X)	(X)
GRANDPARENTS				
Number of grandparents living with own grandchildren under 18 years	803	±187	803	(X)
Grandparents responsible for grandchildren	382	±121	47.6%	±11.2
Years responsible for grandchildren				

Less than 1 year	118	±91	14.7%	±10.6
1 or 2 years	62	±48	7.7%	±6.1
3 or 4 years	55	±61	6.8%	±7.2
5 or more years	147	±79	18.3%	±9.4
Number of grandparents responsible for own grandchildren under 18 years	382	±121	382	(X)
Who are female	251	±95	65.7%	±12.6
Who are married	194	±111	50.8%	±19.7
<b>SCHOOL ENROLLMENT</b>				
Population 3 years and over enrolled in school	6,480	±358	6,480	(X)
Nursery school, preschool	339	±141	5.2%	±2.0
Kindergarten	419	±152	6.5%	±2.4
Elementary school (grades 1-8)	2,529	±193	39.0%	±3.1
High school (grades 9-12)	1,482	±188	22.9%	±2.8
College or graduate school	1,711	±260	26.4%	±3.0
<b>EDUCATIONAL ATTAINMENT</b>				
Population 25 years and over	21,736	±141	21,736	(X)
Less than 9th grade	1,407	±254	6.5%	±1.2
9th to 12th grade, no diploma	2,326	±310	10.7%	±1.4
High school graduate (includes equivalency)	7,768	±612	35.7%	±2.8
Some college, no degree	4,680	±454	21.5%	±2.1
Associate's degree	1,252	±220	5.8%	±1.0
Bachelor's degree	2,531	±313	11.6%	±1.5
Graduate or professional degree	1,772	±247	8.2%	±1.1
High school graduate or higher	18,003	±414	82.8%	±1.8
Bachelor's degree or higher	4,303	±419	19.8%	±1.9
<b>VETERAN STATUS</b>				
Civilian population 18 years and over	24,174	±181	24,174	(X)
Civilian veterans	2,491	±257	10.3%	±1.1
<b>DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED POPULATION</b>				
Total Civilian Noninstitutionalized Population	30,438	±229	30,438	(X)
<b>With a disability</b>	<b>6,826</b>	<b>±512</b>	<b>22.4%</b>	<b>±1.7</b>
Under 18 years	6,666	±95	6,666	(X)
With a disability	357	±120	5.4%	±1.8
18 to 64 years	18,768	±189	18,768	(X)
With a disability	4,019	±442	21.4%	±2.3
65 years and over	5,004	±123	5,004	(X)
With a disability	2,450	±226	49.0%	±4.5
<b>RESIDENCE 1 YEAR AGO</b>				
Population 1 year and over	30,990	±124	30,990	(X)
Same house	23,777	±783	76.7%	±2.5
Different house in the U.S.	6,982	±776	22.5%	±2.5
Same county	3,029	±653	9.8%	±2.1
Different county	3,953	±612	12.8%	±2.0
Same state	3,013	±572	9.7%	±1.8
Different state	940	±249	3.0%	±0.8
Abroad	231	±116	0.7%	±0.4
<b>PLACE OF BIRTH</b>				
Total population	31,362	*****	31,362	(X)
Native	30,152	±350	96.1%	±1.1
Born in United States	29,717	±394	94.8%	±1.3
State of residence	21,965	±706	70.0%	±2.3
Different state	7,752	±663	24.7%	±2.1
Born in Puerto Rico, U.S. Island areas, or born abroad to American parent	435	±172	1.4%	±0.5
Foreign born	1,210	±350	3.9%	±1.1

U.S. CITIZENSHIP STATUS				
Foreign-born population	1,210	±350	1,210	(X)
Naturalized U.S. citizen	472	±162	39.0%	±10.5
Not a U.S. citizen	738	±271	61.0%	±10.5
YEAR OF ENTRY				
Population born outside the United States	1,645	±394	1,645	(X)
Native	435	±172	435	(X)
Entered 2010 or later	24	±32	5.5%	±7.3
Entered before 2010	411	±167	94.5%	±7.3
Foreign born	1,210	±350	1,210	(X)
Entered 2010 or later	211	±133	17.4%	±8.6
Entered before 2010	999	±269	82.6%	±8.6
WORLD REGION OF BIRTH OF FOREIGN BORN				
Foreign-born population, excluding population born at sea	1,210	±350	1,210	(X)
Europe	142	±55	11.7%	±4.9
Asia	255	±129	21.1%	±9.4
Africa	227	±176	18.8%	±12.5
Oceania	0	±26	0.0%	±2.8
Latin America	576	±227	47.6%	±12.9
Northern America	10	±16	0.8%	±1.4
LANGUAGE SPOKEN AT HOME				
Population 5 years and over	29,079	±101	29,079	(X)
English only	27,070	±296	93.1%	±1.1
Language other than English	2,009	±323	6.9%	±1.1
Speak English less than "very well"	585	±150	2.0%	±0.5
Spanish	1,366	±196	4.7%	±0.7
Speak English less than "very well"	448	±115	1.5%	±0.4
Other Indo-European languages	227	±79	0.8%	±0.3
Speak English less than "very well"	55	±34	0.2%	±0.1
Asian and Pacific Islander languages	139	±70	0.5%	±0.2
Speak English less than "very well"	44	±40	0.2%	±0.1
Other languages	277	±205	1.0%	±0.7
Speak English less than "very well"	38	±59	0.1%	±0.2
ANCESTRY				
Total population	31,362	*****	31,362	(X)
American	1,094	±287	3.5%	±0.9
Arab	50	±72	0.2%	±0.2
Czech	22	±23	0.1%	±0.1
Danish	0	±26	0.0%	±0.1
Dutch	79	±48	0.3%	±0.2
English	855	±272	2.7%	±0.9
French (except Basque)	126	±74	0.4%	±0.2
French Canadian	28	±22	0.1%	±0.1
German	779	±148	2.5%	±0.5
Greek	99	±136	0.3%	±0.4
Hungarian	10	±15	0.0%	±0.1
Irish	602	±169	1.9%	±0.5
Italian	218	±95	0.7%	±0.3
Lithuanian	0	±26	0.0%	±0.1
Norwegian	73	±53	0.2%	±0.2
Polish	202	±116	0.6%	±0.4
Portuguese	24	±36	0.1%	±0.1
Russian	86	±71	0.3%	±0.2
Scotch-Irish	75	±49	0.2%	±0.2

Scottish	157	±86	0.5%	±0.3
Slovak	11	±18	0.0%	±0.1
Subsaharan African	851	±363	2.7%	±1.2
Swedish	76	±74	0.2%	±0.2
Swiss	0	±26	0.0%	±0.1
Ukrainian	6	±11	0.0%	±0.1
Welsh	41	±38	0.1%	±0.1
West Indian (excluding Hispanic origin groups)	192	±99	0.6%	±0.3
COMPUTERS AND INTERNET USE				
Total households	13,165	±351	13,165	(X)
With a computer	10,676	±346	81.1%	±2.1
With a broadband Internet subscription	9,089	±409	69.0%	±2.5

## DPO2 CENSUS TRACT 1.01

## Label

## Census Tract 1.01, Petersburg County

## HOUSEHOLDS BY TYPE

Total households	992	±110	992	(X)
Married-couple family	154	±71	15.5%	±7.6
With own children of the householder under 18 years	0	±12	0.0%	±3.5
Cohabiting couple household	53	±38	5.3%	±3.8
With own children of the householder under 18 years	20	±33	2.0%	±3.2
Male householder, no spouse/partner present	153	±71	15.4%	±7.0
With own children of the householder under 18 years	18	±22	1.8%	±2.3
Householder living alone	128	±65	12.9%	±6.3
65 years and over	80	±56	8.1%	±5.5
Female householder, no spouse/partner present	632	±127	63.7%	±9.5
With own children of the householder under 18 years	217	±103	21.9%	±9.5
Householder living alone	219	±83	22.1%	±8.4
65 years and over	75	±48	7.6%	±4.8
Households with one or more people under 18 years	319	±107	32.2%	±10.1
Households with one or more people 65 years and over	254	±92	25.6%	±8.9
Average household size	2.73	±0.46	(X)	(X)
Average family size	3.56	±0.66	(X)	(X)
RELATIONSHIP				
Population in households	2,711	±450	2,711	(X)
Householder	992	±110	36.6%	±6.0
Spouse	149	±65	5.5%	±2.7
Unmarried partner	68	±44	2.5%	±1.7
Child	1,050	±327	38.7%	±9.0
Other relatives	386	±301	14.2%	±10.0
Other nonrelatives	66	±70	2.4%	±2.5
MARITAL STATUS				
Males 15 years and over	1,008	±234	1,008	(X)
Never married	705	±227	69.9%	±9.4
Now married, except separated	154	±71	15.3%	±7.1
Separated	11	±17	1.1%	±1.7
Widowed	29	±26	2.9%	±2.6
Divorced	109	±59	10.8%	±6.6
Females 15 years and over	1,199	±194	1,199	(X)
Never married	669	±165	55.8%	±7.9
Now married, except separated	201	±82	16.8%	±7.9
Separated	129	±84	10.8%	±6.2
Widowed	87	±44	7.3%	±3.7
Divorced	113	±76	9.4%	±6.3
FERTILITY				
Number of women 15 to 50 years old who had a birth in the p9		±16	9	(X)
Unmarried women (widowed, divorced, and never married)	9	±16	100.0%	±100.0
Per 1,000 unmarried women	15	±27	(X)	(X)

Per 1,000 women 15 to 50 years old	11	±21	(X)	(X)
Per 1,000 women 15 to 19 years old	0	±292	(X)	(X)
Per 1,000 women 20 to 34 years old	26	±47	(X)	(X)
Per 1,000 women 35 to 50 years old	0	±93	(X)	(X)
<b>GRANDPARENTS</b>				
Number of grandparents living with own grandchildren under 33	33	±31	33	(X)
Grandparents responsible for grandchildren	33	±31	100.0%	±53.6
Years responsible for grandchildren				
Less than 1 year	0	±12	0.0%	±53.6
1 or 2 years	11	±18	33.3%	±45.6
3 or 4 years	0	±12	0.0%	±53.6
5 or more years	22	±26	66.7%	±45.6
Number of grandparents responsible for own grandchildren u	33	±31	33	(X)
Who are female	33	±31	100.0%	±53.6
Who are married	11	±18	33.3%	±45.6
<b>SCHOOL ENROLLMENT</b>				
Population 3 years and over enrolled in school	577	±244	577	(X)
Nursery school, preschool	77	±78	13.3%	±13.0
Kindergarten	61	±54	10.6%	±8.7
Elementary school (grades 1-8)	159	±120	27.6%	±19.5
High school (grades 9-12)	154	±135	26.7%	±18.2
College or graduate school	126	±85	21.8%	±11.3
<b>EDUCATIONAL ATTAINMENT</b>				
Population 25 years and over	1,610	±265	1,610	(X)
Less than 9th grade	98	±64	6.1%	±3.6
9th to 12th grade, no diploma	274	±106	17.0%	±7.0
High school graduate (includes equivalency)	745	±238	46.3%	±10.2
Some college, no degree	338	±155	21.0%	±8.9
Associate's degree	51	±37	3.2%	±2.4
Bachelor's degree	99	±86	6.1%	±5.6
Graduate or professional degree	5	±10	0.3%	±0.6
High school graduate or higher	1,238	±250	76.9%	±6.8
Bachelor's degree or higher	104	±87	6.5%	±5.8
<b>VETERAN STATUS</b>				
Civilian population 18 years and over	2,070	±305	2,070	(X)
Civilian veterans	117	±53	5.7%	±2.9
<b>DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED PC</b>				
Total Civilian Noninstitutionalized Population	2,716	±450	2,716	(X)
With a disability	847	±328	31.2%	±10.9
Under 18 years	646	±247	646	(X)
With a disability	33	±42	5.1%	±6.3
18 to 64 years	1,816	±314	1,816	(X)
With a disability	642	±335	35.4%	±15.2
65 years and over	254	±91	254	(X)
With a disability	172	±80	67.7%	±15.8



## RESIDENCE 1 YEAR AGO

Population 1 year and over	2,671	±444	2,671	(X)
Same house	2,290	±476	85.7%	±9.6
Different house in the U.S.	381	±253	14.3%	±9.6
Same county	246	±207	9.2%	±7.7
Different county	135	±139	5.1%	±5.4
Same state	135	±139	5.1%	±5.4
Different state	0	±12	0.0%	±1.3
Abroad	0	±12	0.0%	±1.3
<b>PLACE OF BIRTH</b>				
Total population	2,716	±450	2,716	(X)
Native	2,695	±452	99.2%	±0.8
Born in United States	2,638	±471	97.1%	±2.3
State of residence	2,279	±500	83.9%	±7.5
Different state	359	±161	13.2%	±6.4
Born in Puerto Rico, U.S. Island areas, or born abroad to U.S. citizens	57	±52	2.1%	±2.1
Foreign born	21	±20	0.8%	±0.8
<b>U.S. CITIZENSHIP STATUS</b>				
Foreign-born population	21	±20	21	(X)
Naturalized U.S. citizen	21	±20	100.0%	±67.2
Not a U.S. citizen	0	±12	0.0%	±67.2
<b>YEAR OF ENTRY</b>				
Population born outside the United States	78	±56	78	(X)
Native	57	±52	57	(X)
Entered 2010 or later	0	±12	0.0%	±40.8
Entered before 2010	57	±52	100.0%	±40.8
Foreign born	21	±20	21	(X)
Entered 2010 or later	0	±12	0.0%	±67.2
Entered before 2010	21	±20	100.0%	±67.2
<b>WORLD REGION OF BIRTH OF FOREIGN BORN</b>				
Foreign-born population, excluding population born at sea	21	±20	21	(X)
Europe	13	±15	61.9%	±50.3
Asia	0	±12	0.0%	±67.2
Africa	0	±12	0.0%	±67.2
Oceania	0	±12	0.0%	±67.2
Latin America	8	±12	38.1%	±50.3
Northern America	0	±12	0.0%	±67.2
<b>LANGUAGE SPOKEN AT HOME</b>				
Population 5 years and over	2,483	±427	2,483	(X)
English only	2,363	±451	95.2%	±5.5
Language other than English	120	±132	4.8%	±5.5
Speak English less than "very well"	36	±34	1.4%	±1.4
Spanish	113	±131	4.6%	±5.4
Speak English less than "very well"	29	±32	1.2%	±1.4
Other Indo-European languages	7	±11	0.3%	±0.5

Speak English less than "very well"	7	±11	0.3%	±0.5
Asian and Pacific Islander languages	0	±12	0.0%	±1.4
Speak English less than "very well"	0	±12	0.0%	±1.4
Other languages	0	±12	0.0%	±1.4
Speak English less than "very well"	0	±12	0.0%	±1.4
ANCESTRY				
Total population	2,716	±450	2,716	(X)
American	29	±35	1.1%	±1.3
Arab	0	±12	0.0%	±1.3
Czech	0	±12	0.0%	±1.3
Danish	0	±12	0.0%	±1.3
Dutch	0	±12	0.0%	±1.3
English	7	±11	0.3%	±0.4
French (except Basque)	0	±12	0.0%	±1.3
French Canadian	0	±12	0.0%	±1.3
German	25	±32	0.9%	±1.2
Greek	0	±12	0.0%	±1.3
Hungarian	0	±12	0.0%	±1.3
Irish	20	±23	0.7%	±0.9
Italian	8	±12	0.3%	±0.5
Lithuanian	0	±12	0.0%	±1.3
Norwegian	0	±12	0.0%	±1.3
Polish	0	±12	0.0%	±1.3
Portuguese	0	±12	0.0%	±1.3
Russian	0	±12	0.0%	±1.3
Scotch-Irish	0	±12	0.0%	±1.3
Scottish	0	±12	0.0%	±1.3
Slovak	0	±12	0.0%	±1.3
Subsaharan African	14	±23	0.5%	±0.9
Swedish	0	±12	0.0%	±1.3
Swiss	0	±12	0.0%	±1.3
Ukrainian	0	±12	0.0%	±1.3
Welsh	0	±12	0.0%	±1.3
West Indian (excluding Hispanic origin groups)	0	±12	0.0%	±1.3
COMPUTERS AND INTERNET USE				
Total households	992	±110	992	(X)
With a computer	805	±124	81.1%	±7.0
With a broadband Internet subscription	738	±114	74.4%	±8.1

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# Chapter 1:

## Introduction

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The purpose of this manual is to serve as a resource for participants attending the Fair Housing Essentials® training program of the National Center for Housing Management. Our goal with this manual is simple and straightforward: We hope the Fair Housing Essentials® training and manual will assist site managers, regional property managers, owners, and other interested individuals and entities to better understand the regulations that have been implemented and which form the basis for compliance.

One of the things that many people have remarked over the years is that unlike so many other regulations issued by the federal government, there is a lot of common sense inherent in fair housing and civil rights. True, there are a few “curve balls” here but one of the great things about civil rights regulations is that the basic concept behind them, making certain there is full and equal access, is fairly easy to understand and implement.

In this book, we will focus on the following regulations:

- The Fair Housing Act (FHA) and Fair Housing Act Amendments (FHAA) (24 CFR Part 100 et. seq.);
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (24 CFR Part 8);
- The Americans with Disabilities Act of 1990 (ADA); and
- Some of the fair housing protections afforded under state law.

A word about how this book is organized.

Some of you probably have other manuals you received when you took a NCHM course. What this manual has in common with those is that we are including the text of the appropriate language in an Appendix. We also have the during-the-course exercises as is customary for our courses.

The difference in this book, a difference more of style than of substance, is that it is written as a series of Frequently Asked Questions (FAQ). The questions appear in bold italics while the answers are in regular text. As we go through the presentation, you will be able to refer to the FAQ and utilize both the lecture and the manual to answer the quiz questions at the end of each segment.

*DISCLAIMER: This manual and the training program it accompanies are not intended as legal advice. Since violations of civil rights regulations can involve litigation and substantial monetary damages, participants are advised to rely solely on the advice of legal counsel in fair housing and other civil rights related matters.*

## Chapter 2:

# The Fair Housing Act and The Fair Housing Act Amendments

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This chapter covers the Fair Housing Act and the Fair Housing Act Amendments of 1988 as promulgated by the United States Department of Housing and Urban Development (24 CFR Parts 100 et. seq.).

### *What is the Fair Housing Act?*

The Fair Housing Act is Title VIII of the Civil Rights Act of 1968. It was amended in 1988 to include an additional two protected classes of persons:

- (1) Disability; and
- (2) Familial Status.

### *Who is responsible for enforcement of the Act?*

The Office of Fair Housing and Equal Opportunity is primarily responsible for compliance and enforcement of the Act, although many state agencies and non-profit organizations have been given what is called "essentially equivalent agency" authority for compliance and enforcement matters.

### *What are the basic provisions of the Act?*

The Fair Housing Act contains a common theme. In its most basic form, the Fair Housing Act makes it illegal to discriminate on the basis of race, color, religion, sex, handicap, familial status, or national origin. These are referred to as protected classes. With limited exceptions, the Fair Housing Act has universal applicability, including conventional housing (such as apartments, homes, condominiums, cooperatives, and manufactured housing), federally-subsidized housing, public housing, state housing finance agency-administered housing, and even most activities engaged in by real estate agents and mortgage companies.

### *That seems to cover most housing in the United States, doesn't it?*

Yes. Although there are additional, rare exceptions, the only entities effectively not covered by the Act are owner-occupied dwellings of four (4) or more.

### *So the Fair Housing Act covers both subsidized and non-subsidized properties?*

Yes, that's correct.

## □ Section I: Race and Color Discrimination

*What is discrimination in housing based on race or color?*

Put simply, it is treating someone differently on the basis of their racial background or skin color. In terms of the Fair Housing Act Amendments, this means subjecting someone to different treatment, screening, housing choice, access to amenities, lease enforcement, etc.

*Doesn't discrimination have to be intentional? What's the harm if I discriminate without meaning to do so?*

No. Discrimination need not be "intentional" to be subject to enforcement and compliance. Unintentional discrimination is still discrimination.

*Why does the Fair Housing Act make a separation between "race" and "color?" Aren't they the same thing?*

"Race" and "color" are two completely different concepts. The Fair Housing Act sought to end racial segregation in housing, but it also recognized a history of discrimination in this country that was based on the color of the individual but was not based on his or her race. Some of this discrimination manifested itself in a preference for and against people of different skin tones within the same racial group.

*How can I possibly discriminate on the basis of race when our state law prevents us from even asking about someone's racial background?*

This is an interesting question because it gets to the heart of a dilemma. There are many state laws that prohibit asking about someone's racial background. If you work at a property that is receiving federal housing assistance, the certification form for subsidy does ask for racial and ethnic information. In addition, you may be subject to an Affirmative Fair Housing Marketing Plan (AFHMP). HUD does prohibit including information on race and ethnicity (as well as gender) in connection with waiting lists. The problem, however, is that the logic of the question is fundamentally flawed. Simply because the documentation doesn't exist isn't, of itself, proof that discrimination didn't occur. Some people believe that it is possible to determine the racial background by visual observation or the sound of a voice. While neither of these beliefs is entirely without some truth, it also points out that the issue of whether or not one asks about race on an application is not an accurate measurement of whether or not an individual or entity is acting in a discriminatory manner.

*What is the most common form of discrimination based on race or color?*

It is difficult to say whether there is a "common" form of racial discrimination. Historically, the most common form of racial discrimination was segregation. Intentionally grouping individuals by race in particular buildings or parts of a town on the

- Selecting applicants from your waiting list on the basis of race (HUD prohibits information on race from being on waiting lists).
- Applying any existing standards in a skewed manner based on race. Prioritizing maintenance work orders based on the person, rather than the job, and giving first preference to residents of one race over another.
- Providing a lesser standard of maintenance service for one race.

*If we prepare an advertisement in which we show a group of "residents" who all happen to be white, does this mean we have discriminated?*

Advertising is covered by the Fair Housing Act and any advertisement which gives the impression that the housing is for members of a certain race can be regarded as discriminatory. While you may not intend discrimination, the ad you describe can be construed as discriminatory. Essentially, all advertising campaigns using human models should depict the majority and minority population in your metropolitan area (this is *not* the neighborhood or area of town, but the entire metro-area) and children as well. And those human models should be depicted in similar size and social standing (please don't have residents be white and service personnel be non-white!). If your ad concept doesn't work with lots of people, then rotate the various groups (racial, ethnic, etc.) during the course of the advertisement's publication; have your rotation plan in writing before the first use of the ad.

*Is there any other advertising about which we should worry?*

Just remember that advertising is not just in magazines and newspapers. It is anything that promotes your company or community. Brochures, billboards, model apartments with picture frames in the rooms, even bulletin boards or scrapbooks...all of these are ways you seek to have people choose to live with you. So if human models are used, remember diversity!

*What about the Equal Housing Opportunity Logo?*

Quite interestingly, the regulations do not require the use of the logo, but they strongly recommend it. And using it liberally (not only in ads, but on business cards, letterhead, even maintenance staff uniforms) is smart thing to do. First of all, you never want to be explaining in a courtroom or during an investigation why it *wasn't* used. And using it liberally speaks volumes about the commitment your company has made to this very important topic.

*Sexual harassment is prohibited under the Fair Housing Act? I am used to hearing about this issue only in connection with employment.*

You're not alone. Many people have become aware of sexual harassment as a result of employment issues: "Sexual Harassment in the Workplace" is a book that is widely credited with bringing this issue to the attention of the public, not to mention the widespread media exposure in connection with high profile lawsuits.

*What is the definition of sexual harassment?*

The federal statute defines sexual harassment as "repeated, pervasive, offensive conduct or behavior of a sexual nature." In some state laws, however, one incident is enough to be actionable under the state's sexual harassment statutes (such as New Jersey).

*This really depends on perception, doesn't it?*

If by that question you mean that you might not intend to have sexually harassed someone but they perceive that you did, you would be right. But so many lawsuits and complaints have flowed from perception which, as the old adage goes, is 9/10's of reality.

*So how is sexual harassment prohibited in the Fair Housing Act?*

There are two types of sexual harassment prohibited by the Act:

1. **Quid Pro Quo.** This is a Latin term which, loosely translated means "this for that." It is the most overt form of sexual harassment.
2. **Hostile Housing Environment.** This is more subtle and it is a modification of "Hostile work environment" in the original statutes prohibiting sexual harassment.

*Can you give us some examples?*

Here is an example of a quid pro quo case: Management agent to a prospective resident: "Sweetheart, if you sleep with me, I will give you a break on your rent." In this example, based on an actual case, the individual alleged to have sexually harassed is offering something (a break in the rent) for something sexual (sexual favors).

Here is an example of hostile housing environment: A resident goes to her apartment. She passes a couple of maintenance employees for the property who do the "wolf whistle." She complains to management, which takes no action except to assure her not to worry.

*Well, how was management wrong to respond in that way?*

In the second example, the resident felt threatened and unsafe. The maintenance employees may have had pass keys (they did). She also felt dehumanized and



monthly income) to the monthly rent they can afford. This is prohibited under the protected class of sex.

*Is it possible to have a policy where we rent to individuals of one sex but not another?*

Well, there are college dormitories which do this frequently. There is also single room occupancy (SRO) housing, and this type of housing has often received waivers from HUD. Other than this, the Fair Housing Act provides an exemption for religious organizations and private clubs, as follows:

“Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.” Fair Housing Act, 42 U.S.C. § 3607(a) (1988) (emphasis added).

The one area where this could be an issue if not handled write is student housing, an area into which a number of companies are now venturing. Some ideas about student housing can be found in an article by Nadeen Green, Senior Counsel with For Rent Magazine®, titled “School Days, School Days...Dear Fair Housing Rule Days.”

### □ Section III: Religious Discrimination

*I know this subject pretty well. You're going to tell me we can't have Christmas parties at the property, right?*

No, we're not going to tell you that.

*Really?*

Yes, really. It would, however, be better to have a “Holiday” party to lessen the possibility a resident or applicant could construe the party as indicative of a religious preference for or against a religious group. However, HUD has said that Santa (and the Easter Bunny), and the expressions “Merry Christmas” and “Happy Easter” do not themselves create a fair housing violation.

*Why would the second example be a violation? Isn't this just a preference against religion and a housing provider's freedom to express her religious beliefs?*

No, this isn't a preference against religion. Housing professionals must keep in mind this a heavily-regulated industry because housing is a basic human need and providing housing is a quasi-public activity. In the example of the woman who maintains the numerous pieces of religious paraphernalia at her desk, the problem isn't with her religious expression. Rather, the fair housing violation is the atmosphere she creates by exposing the public to her religious beliefs. A person who professes Islamic or Jewish faiths may feel as though this property prefers Christians. A Catholic may feel this property prefers Protestants. Even in this exaggerated example, the woman doesn't intend to communicate this preference, and her property may not actively discriminate against people based upon their religious beliefs, but her actions have created a discriminatory environment. Such an environment is a fair housing violation.

*Can we allow residents to hold a religious service in the community room?*

Yes, that is okay. But you must be aware that if you allow the use of a community room for a Catholic Mass, for instance, you must also allow Jewish residents to use the community room for Shabbat or Passover and this rule would also apply to residents of other faiths who wish to use the community room. Perhaps Muslim prayer sessions during Ramadan might also be appropriate in such circumstances.

*Are there any other things we should be alert to in terms of allowing residents to use the community room for religious purposes?*

Yes. Management needs to be careful not to give the impression that it is either promoting or discouraging residents from participating in resident-based religious services.

*Isn't that a "Catch-22" if we can't promote it or discourage it?*

Not really. In essence, management must take a "hands off" attitude. The role of management begins and ends at making the community space available.

*Can we include mention of the religious service in our monthly bulletin?*

If your bulletin includes space for notices by and for residents, this would be the appropriate place for a mention.

*Our housing is financed and was built by a church organization. Can they/we establish a preference in tenancy for members of that Church?*

No. Not if the housing is rental housing.

*In the wake of September 11<sup>th</sup>, we feel we should be doing criminal background checks on applicants with Islamic names. What is your opinion?*

If you are doing criminal background checks, you should be doing them on ALL applicants not just those with Islamic names. So anything along the lines of the question may lead to allegations of religious and/or national origin discrimination (see next section).

□ **Section IV: National Origin Discrimination**

*What is national origin discrimination?*

In connection with housing, national origin discrimination is treating an individual differently in the terms of rental, conditions of occupancy or other areas of policy, practice or procedure based on their country of origin, presumably outside of the United States.

*Doesn't this provision of the Fair Housing Act contradict the "Non-citizen rule" of the U.S. Department of Housing and Urban Development (HUD) which limits federal housing assistance to US citizens and eligible non-citizens?*

No, it doesn't. Section 214 of the Housing and Community Development Act as passed into law by the United States Congress specifically limited federal assisted housing to US citizens or non-citizens with eligible immigration status. The latter includes, by its very definition, individuals who were born outside the US so it is not a contradiction.

*What types of discrimination in housing might be considered "national origin" discrimination?*

The same types of actions we have already mentioned: different screening criteria, "steering," different policies, practices and procedures, and so on.

*Isn't there any type of complaint that comes to Fair Housing that is somewhat unique to national origin?*

It is always risky to say whether something is more prevalent to a specific group of persons protected by the Fair Housing Act. If we had to take a guess, however, it would probably be in the area of occupancy standards.

*What other issues could result in allegations of national origin discrimination?*

Any rule that requires all applicants and/or residents to provide copies of birth certificates.

disclosed and law enforcement can determine who, if anyone, is a legitimate focus for investigation.

That said, if your suspicions about someone's activities are based on information or observations that are not solely tied to an individual's national origin, do not hesitate to communicate those concerns to law enforcement.

*In a similar vein, if a resident harasses another resident because they are of Middle Eastern background, are we liable under Fair Housing laws?*

We cannot address liability issues but as a general rule when the rights of a resident are alleged to have been violated, by either management or another resident, it is a matter of concern. Because neighbor-to-neighbor discrimination based on race has been held to be an issue which management must address, courts would likely parallel this position in a national origin case.

*Diversity of language is directly tied to national origin diversity. As a maintenance professional who speaks only English, how do I do what needs to be done when I cannot communicate with residents?*

Here are two ideas that might be helpful. First, in a large company, chances are there is someone who speaks a non-English language along with English, particularly if this other language is somewhat widespread, such as Spanish. That employee could develop a work order in that other language for certain of the residents to use. The employee could then translate the work order for maintenance personnel. Because of fax machines, this will work even if the employee who is bilingual or multi-lingual is not at your community.

Another idea comes from Scott Beckman with *CommonBond* (see his article "Getting to Know You..." written with Nadeen Green, Senior Counsel with *For Rent Magazine*®). He suggests a laminated card as a handy tool. Show pictures of a toilet, a bathroom sink, a refrigerator, stove, light bulb, etc. You may not understand what the problem with refrigerator may be, for example, but you will at least have a starting point as to the general nature of the problem. And with images, you create a "universal language," needing only one card no matter how many languages are spoken at your community.

#### □ Section V: Discrimination on the Basis of Disability

*Why is discrimination on the basis of disability prohibited by the Fair Housing Act when a lot of the subject is already addressed in Section 504?*

The Fair Housing Act was amended in 1988 to include two additional protected classes: individuals with disabilities and familial status (see Section VI). While Section 504 is indeed a law that protects persons with disabilities (see next Chapter), the scope of that law is limited to recipients of federal financial assistance and covers only employment and physical accessibility.

occupancy on or before March 13, 1991, if the dwelling is occupied by that date, or if the last building permit or renewal thereof government on or before June 15, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1): A real estate developer plans to construct six covered multifamily dwelling units on a site with a hilly terrain. Because of the terrain, it will be necessary to climb a long and steep stairway in order to enter the dwellings. Since there is no practical way to provide an accessible route to any of the dwellings, one need not be provided.

Example (2): A real estate developer plans to construct a building consisting of 10 units of multifamily housing on a waterfront site those floods frequently. Because of this unusual characteristic of the site, the builder plans to construct the building on stilts. It is customary for housing in the geographic area where the site is located to be built on stilts. The housing may lawfully be constructed on the proposed site on stilts even though this means that there will be no practical way to provide an accessible route to the building entrance.

Example (3): A real estate developer plans to construct a multifamily housing facility on a particular site. The developer would like the facility to be built on the site to contain as many units as possible. Because of the configuration and terrain of the site, it is possible to construct a building with 105 units on the site provided the site does not have an accessible route leading to the building entrance. It is also possible to construct a building on the site with an accessible route leading to the building entrance. However, such a building would have no more than 100 dwelling units. The building to be constructed on the site must have a building entrance on an accessible route because it is not impractical to provide such an entrance because of the terrain or unusual characteristics of the site.

(c) All covered multifamily dwellings for first occupancy after March 13, 1991 with a building entrance on an accessible route shall be designed and constructed in such a manner that—

1. The public and common use areas are readily accessible to and usable by handicapped persons;
2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
3. All premises within covered multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the covered dwelling unit;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(i) This subpart does not invalidate or limit any law of a State or political subdivision of a State that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subpart. [54 FR 3283, Jan. 23, 1989, as amended at 56 FR 11665, Mar. 20, 1991]. Source: 24 CFR Part 100.205.

*What do you regard as the most important elements of the Fair Housing Act on this issue other than physical accessibility?*

Without question, the issues of reasonable accommodation and reasonable modification.

*What is the definition of "reasonable accommodation?"*

The definition of reasonable accommodation is the following:

An alteration to a policy, practice or procedure that is both reasonable and necessary to enable a person with a disability to benefit from and enjoy housing. The regulations state the following:

It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas:

Example (1): A blind applicant for rental housing wants live in a dwelling unit with a seeing eye dog. The building has a no pets policy. It is a violation of Sec. 100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because, without the seeing eye dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.

Example (2): Progress Gardens is a 300 unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a first come first served basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more than a short distance and therefore requests that a parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation of Sec. 100.204 for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John an equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances. Source: 24 CFR Part 100.204.

These two examples reflect the two most often requested reasonable accommodations for the apartment industry...parking and service animals.

*Doesn't the physician have to tell us what the disability is or how severe it may be?*

No. You are only entitled to verification of the existence of the disability and that there is a connection between that unspecified disability and the request for accommodation that is being made by the prospect or resident.

*What is the most often requested reasonable accommodation?*

Actually, there are two accommodations that come up with frequency. These are requests related to parking and requests for a service animal in a building that has a no-pet policy.

*What is a service animal?*

A service animal is any animal that is needed to provide assistance for a person with a disability. This includes not only seeing-eye dogs, hearing-ear dogs, or a trained monkey for a quadriplegic, but also an animal that is necessary for a person with an emotional disability (commonly referred to as a companion animal). Pet deposits may not be assessed for service animals.

*What are the parking issues?*

Generally, if having an available parking spot in a particular place will make it more manageable for a resident because of their disability, you are going to have to work with them to insure that such a spot is "earmarked" for them and work to keep others from parking there.

*We've been providing reasonable accommodations for years but we've never had a formal policy. Does this present any problems?*

While your actions are commendable, a policy is needed so that there is a structure or procedure that is followed on a companywide basis.

*Is a request for a live-in aide considered a reasonable accommodations request?*

Yes. Additionally, if you are a HUD assisted property, the regulations state that the live-in aide is to be listed on the 59 data reporting as a live-in aide but they are not to sign a lease and their income is not counted. The HUD Handbook 4350.3 Rev-1 also requires that live-in aides be screened for criminal background but management should obtain legal counsel to determine whether such screening would create a tenancy under state landlord-tenant law.

modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example (2): An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

*So we can charge the resident for making modifications?*

Market rate developments can assess such charges under certain conditions, which usually relate to the age of the building; HUD assisted properties cannot due to the provisions of Section 504 of the Rehabilitation Act of 1973. However, HUD assisted properties can require a tenant to place money into escrow so that the premises can be returned to a usable condition. As was previously mentioned, this would not be done in connection with narrowing a door that has been widened nor would it be done if the owner wishes to retain the modified apartment for future residents.

*For market rate developments, what does age have to do with anything?*

The requirements are different for communities that were first occupied before March 12, 1991. These are "older" communities for Fair Housing purposes which means that no special design features were required. Usually the only responsibility of the landlord is to allow a resident, at the resident's cost, to make reasonable modifications to the apartment. But for buildings first occupied on or after March 13, 1991, the standard is different. The Fair Housing act requires that all the ground floor and/or elevator accessible apartments in such "new" buildings have the design features that we have already discussed. So the only reasonable modifications for which a resident would have to pay are related to what is not required in the first place. That is why it is important for property managers, leasing agents and maintenance professionals to understand this area of the law. Check the date, then if "new," check the design requirement list before anyone (leasing, property management or maintenance) requires anything of the resident or commits to them. "Beware the (Almost) Ides of March" by Nadeen Green, Senior Counsel with *ForRent Magazine*® gives you more information on this.



*So familial status does not refer to whether an individual is single or married?*

That's correct.

*Can you give examples of familial status discrimination?*

Here are a few examples that could be considered familial status discrimination:

- Requiring a family with children to occupy an apartment on a lower floor. This would be considered a policy that restricts housing choice.
- Requiring a single mother with a child to occupy (or be eligible for) a two bedroom unit. A parent or grandparent can share a bedroom with a child at their option, no matter whether the child is a boy or a girl.
- Having rules that target children, such as a policy that states children shall not play in the hallways. In fact, any policy that mentions the words "child" or "children" needs to have legal review. In the above example, the property with this policy was found liable for familial status discrimination; the judge noting that children playing checkers in the hallway would not disturb anyone, and that if the company's intent was to have zero tolerance for noise or disruptions in the hallways, that policy should be addressed to all residents and not just to those with children. There are valid ways to have rules related to children for swimming pools, exercise facilities and specialty equipment such as saunas and hot tubs. Any other rules related to children are probably risky.

*We provide HUD assisted housing for seniors. Do we have to allow children?*

Yes. HUD regulations specify that as long as the head of household, co-head or spouse meets the program eligibility criteria, the fact that there is a child in the household cannot be used to disqualify the application.

*Is legal custody required?*

No. Grandparents are increasingly becoming the primary caregivers for their grandchildren and getting custody is costly, lengthy and may be difficult or impossible based on state legal requirements for terminating parental rights. Management can require some documentation from the legal parent or guardian or social services organization acknowledging the child is living with their grandparent or other adult caregiver.

*Isn't there an exemption for housing for older persons?*

Yes there is. The provisions (24 CFR Part 100.304) regarding familial status in this part do not apply to housing intended and operated for persons 55 years of age or older (an older person) or for housing occupied by persons 62 and older. For "55+" housing, at least 80 percent of its occupied units are occupied by at least one person 55 years of age

## Chapter 3:

# Section 504 of the Rehabilitation Act

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### *What is Section 504 of the Rehabilitation Act?*

Section 504 of the Rehabilitation Act of 1973 as amended is a federal law that prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance. The regulations cover two issues: employment, and physical accessibility (what the regulations refer to as program accessibility).

### *If we are involved in HUD federally assisted housing, does Section 504 apply to us?*

Section 504 is applicable to all HUD programs except the Section 221(d) (4) program.

### *What about Section 42 Low Income Housing Tax Credits?*

Tax credits are not considered to be federal financial assistance, so this type of housing is not subject to Section 504 unless there is project-based subsidy provided within the tax credit building. The Tax Credit program is subject to the requirements of the Americans with Disabilities Act (ADA).

### *What are the similarities and the differences between Section 504 and the ADA?*

The two laws are alike in several ways.

- Both laws protect persons with disabilities
- Both laws cover employment and physical accessibility

The differences between the two laws are:

- Section 504 is applicable only to recipients of federal funds.
- The ADA is more broadly applicable to private as well as governmental entities.
- Section 504 uses the Uniform Federal Accessibility Standards (UFAS).
- ADA uses the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

### *Is it possible for an entity to be covered under both Section 504 and the ADA? If both are applicable, which law is followed?*

While it is clear in the legislative history that the Congress did not intend to create what is called an essentially duplicative burden, this is effectively what has happened. It was the intent of Congress that the ADA be applicable to those entities which were not already covered by Section 504.

(a) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements.

(b) If power-driven vertical access equipment (e.g., escalator) is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of accessible vertical access shall be provided that complies with 4.7, Curb Ramps; 4.8, Ramps; 4.10, Elevators; or 4.11, Platform Lifts; except to the extent where it is structurally impracticable in transit facilities.

(c) If alterations of single elements, when considered together, amount to an alteration of a space of a building or facility, the entire space shall be made accessible.

(d) No alteration of an existing element, space, or area of a building shall impose a requirement for greater accessibility than that which would be required for new construction. For example, if the elevators and stairs in a building are being altered and the elevators are, in turn, being made accessible, then no accessibility modifications are required to the stairs connecting levels connected by the elevator.

(e) If the alteration work is limited solely to the electrical, mechanical, or plumbing system and does not involve the alteration of any elements and spaces required to be accessible under these standards, then 4.1.6(3) does not apply.

(f) No new accessibility alterations will be required of existing elements or spaces previously constructed or altered in compliance with earlier standards issued pursuant to the Architectural Barriers Act of 1968, as amended.

(g) Mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6.

(2) Where a building or facility is vacated and it is totally altered, then it shall be altered to comply with 4.1.1 to 4.1.5 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable.

(3) Where substantial alteration occurs to a building or facility, then each element or space that is altered or added shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable. The altered building or facility shall contain:

(a) At least one accessible route complying with 4.3, Accessible Route, and 4.1.6(a);

(a) Ramps. Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as shown in Table 2 if space limitations prohibit the use of a 1:12 slope or less.

**Table 2 -- Allowable Ramp Dimensions for Construction in Existing Sites, Buildings, and Facilities**

Slope*	Maximum Rise		Maximum Run	
	in	mm	ft	m
Steeper than 1:10 but no steeper than 1:8	3	75	2	0.6
Steeper than 1:12 but no steeper than 1:10	6	150	5	1.5

\* A slope steeper than 1:8 not allowed.

(b) Stairs. Full extension of stair handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configuration.

(c) Elevators.

(i) If a safety door edge is provided in existing automatic elevators, then the automatic door reopening devices may be omitted (see 4.10.6).

(ii) Where existing shaft or structural elements prohibit strict compliance with 4.10.9, then the minimum floor area dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 48 in by 48 in (1220 mm by 1220 mm).

(d) Doors.

(i) Where existing elements prohibit strict compliance with the clearance requirements of 4.13.5, a projection of 5/8 in (16 mm) maximum will be permitted for the latch side door stop.

(ii) If existing thresholds measure 3/4 in (19 mm) high or less, and are beveled or modified to provide a beveled edge on each side, then they may be retained.

(e) Toilet rooms. Where alterations to existing facilities make strict compliance with 4.22 and 4.23 structurally impracticable, the addition of one "unisex" toilet per floor containing one water closet complying with 4.16 and one lavatory complying with 4.19, located adjacent to existing toilet facilities, will be acceptable in lieu of making existing toilet facilities for each sex accessible.

**EXCEPTION:** In instances of alteration work where provision of a standard stall (Fig. 30(a)) is structurally impracticable or where plumbing code requirements prevent combining existing stalls to provide space, an alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

(b) At least one accessible entrance which is used by the public complying with 4.14 shall be provided.

*EXCEPTION:* If it is determined that no entrance used by the public can comply with 4.14, then access at any entrance not used by the general public but open (unlocked) with directional signs at the primary entrance may be used.

(c) If toilets are provided, then at least one toilet facility complying with 4.22 and 4.1.6 shall be provided along an accessible route that complies with 4.3. Such toilet facility may be "unisex" in design.

(d) Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access should be provided to all levels of a building or facility in compliance with 4.1 whenever practical.

(e) Displays and written information, documents, etc, should be located where they can be seen by a seated person. Exhibits and signage displayed horizontally, e.g., books, should be no higher than 44 in (1120 mm) above the floor surface.

## **4.2 SPACE ALLOWANCE AND REACH RANGES.**

**4.2.1\* WHEELCHAIR PASSAGE WIDTH.** The minimum clear width for single wheelchair passage shall be 32 in (815 mm) at a point and 36 in (915 mm) continuously (see Fig. 1 and 24(e)).

**4.2.2 WIDTH FOR WHEELCHAIR PASSING.** The minimum width for two wheelchairs to pass is 60 in (1525 mm) (see Fig. 2).

**4.2.3\* WHEELCHAIR TURNING SPACE.** The space required for a wheelchair to make a 180-degree turn is a clear space of 60 in (1525 mm) diameter (see Fig. 3(a)) or a T-shaped space (see Fig. 3(b)).

## **4.2.4\* CLEAR FLOOR OR GROUND SPACE FOR WHEELCHAIRS.**

**4.2.4.1 SIZE AND APPROACH.** The minimum clear floor or ground space required to accommodate a single, stationary wheelchair occupant is 30 in by 48 in (760 mm by 1220 mm) (see Fig. 4(a)). The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object (see Fig. 4(b) and (c)). Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

### **4.2.4.2 RELATIONSHIP OF MANEUVERING CLEARANCE TO WHEELCHAIR SPACES.**

One full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear

**4.3.5 HEAD ROOM.** Accessible routes shall comply with 4.4.2.

**4.3.6 SURFACE TEXTURES.** The surface of an accessible route shall comply with 4.5.

**4.3.7 SLOPE.** An accessible route with a running slope greater than 1:20 is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50.

**4.3.8 CHANGES IN LEVELS.** Changes in levels along an accessible route shall comply with 4.5.2. If an accessible route has changes in level greater than 1/2 in (13 mm), then a curb ramp, ramp, elevator, or platform lift shall be provided that complies with 4.7, 4.8, 4.10, or 4.11, respectively. Stairs shall not be part of an accessible route.

**4.3.9 DOORS.** Doors along an accessible route shall comply with 4.13.

**4.3.10\* EGRESS.** Accessible routes serving any accessible space or element shall also serve as a means of egress for emergencies or connect to an accessible place of refuge. Such accessible routes and places of refuge shall comply with the requirements of the administrative authority having jurisdiction. Where fire code provisions require more than one means of egress from any space or room, then more than one accessible means of egress shall also be provided for handicapped people. Arrange egress so as to be readily accessible from all accessible rooms and spaces.

#### **4.4 PROTRUDING OBJECTS.**

**4.4.1\* GENERAL.** Objects projecting from walls (for example, telephones) with their leading edges between 27 in and 80 in (685 mm and 2030 mm) above the finished floor shall protrude no more than 4 in (100 mm) into walks, halls, corridors, passageways, or aisles (see Fig. 8(a)). Objects mounted with their leading edges at or below 27 in (685 mm) above the finished floor may protrude any amount (see Fig. 8(a) and (b)). Free-standing objects mounted on posts or pylons may overhang 12 in (305 mm) maximum from 27 in to 80 in (685 mm to 2030 mm) above the ground or finished floor (see Fig. 8(c) and (d)). Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (see Fig. 8(e)).

**4.4.2 HEAD ROOM.** Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have 80 in (2030 mm) minimum clear head room (see Fig. 8(a)). If vertical clearance of an area adjoining an accessible route is reduced to less than 80 in (nominal dimension), a barrier to warn blind or visually-impaired persons shall be provided (see Fig. 8(c)).

#### **4.5 GROUND AND FLOOR SURFACES.**

**4.5.1\* GENERAL.** Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with 4.5.

**4.6.4\* SIGNAGE.** Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility (see 4.30.5). Such signs shall not be obscured by a vehicle parked in the space.

**4.6.5 PASSENGER LOADING ZONES.** Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (6 m) long adjacent and parallel to the vehicle pull-up space (see Fig. 10). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with 4.7 shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

**4.6.6 VERTICAL CLEARANCE.** Provide minimum vertical clearances of 114 in at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be 114 in.

#### **4.7 CURB RAMPS.**

**4.7.1 LOCATION.** Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb.

**4.7.2 SLOPE.** Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.

**4.7.3 WIDTH.** The minimum width of a curb ramp shall be 36 in (915 mm), exclusive of flared sides.

**4.7.4 SURFACE.** Surfaces of curb ramps shall comply with 4.5.

**4.7.5 SIDES OF CURB RAMPS.** If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, then it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

**4.7.6 BUILT-UP CURB RAMPS.** Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes (see Fig. 13).

**4.7.7 WARNING TEXTURES.** (Removed and reserved).

**4.7.8 OBSTRUCTIONS.** Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

Handrails are not required on curb ramps. Handrails shall comply with 4.26 and shall have the following features:

- (1) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.
- (2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface.
- (3) The clear space between the handrail and the wall shall be 1-1/2 in (38 mm).
- (4) Gripping surfaces shall be continuous.
- (5) Top of handrail gripping surfaces shall be mounted between 30 in and 34 in (760 mm and 865 mm) above ramp surfaces.
- (6) Ends of handrails shall be either rounded or returned smoothly to floor, wall or post.
- (7) Handrails shall not rotate within their fittings.

**4.8.6 CROSS SLOPE AND SURFACES.** The cross slope of ramp surfaces shall be no greater than 1:50. Ramp surfaces shall comply with 4.5.

**4.8.7 EDGE PROTECTION.** Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum of 2 in (50 mm) high (see Fig. 17).

**4.8.8 OUTDOOR CONDITIONS.** Outdoor ramps and their approaches shall be designed so that water will not accumulate on walking surfaces.

## **4.9 STAIRS.**

**4.9.1 MINIMUM NUMBER.** Stairs required to be accessible by 4.1 shall comply with 4.9.

**4.9.2 TREADS AND RISERS.** On any given flight of stairs, all steps shall have uniform riser heights and uniform tread widths. Stair treads shall be no less than 11 in (280 mm) wide, measured from riser to riser (see Fig. 18(a)). Open risers are not permitted on accessible routes.

**4.9.3 NOSINGS.** The undersides of nosings shall not be abrupt. The radius of curvature at the leading edge of the tread shall be no greater than 1/2 in (13 mm). Risers shall be sloped or the underside of the nosing shall have an angle not less than 60 degrees from the horizontal. Nosings shall project no more than 1-1/2 in (38 mm) (see Fig. 18).



**4.10.3 HALL CALL BUTTONS.** Call buttons in elevator lobbies and halls shall be centered at 42 in (1065 mm) above the floor. Such call buttons shall have visual signals to indicate when each call is registered and when each call is answered. Call buttons shall be a minimum of 3/4 in (19 mm) in the smallest dimension. The button designating the up direction shall be on top (see Fig. 20). Buttons shall be raised or flush. Objects mounted beneath hall call buttons shall not project into the elevator lobby more than 4 in (100 mm).

**4.10.4 HALL LANTERNS.** A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call. Audible signals shall sound once for the up direction and twice for the down direction or shall have verbal annunciators that say "up" or "down." Visible signals shall have the following features:

- (1) Hall lantern fixtures shall be mounted so that their centerline is at least 72 in (1830 mm) above the lobby floor.
- (2) Visual elements shall be at least 2-1/2 in (64 mm) in the smallest dimension.
- (3) Signals shall be visible from the vicinity of the hall call button. In-car lanterns located in cars, visible from the vicinity of hall call buttons, and conforming to the above requirements, shall be acceptable (see Fig. 20).

**4.10.5 RAISED CHARACTERS ON HOISTWAY ENTRANCES.** All elevator hoistway entrances shall have raised floor designations provided on both jambs. The centerline of the characters shall be 60 in (1525 mm) from the floor. Such characters shall be 2 in (50 mm) high and shall comply with 4.30. Permanently applied plates are acceptable if they are permanently fixed to the jambs. (See Fig. 20).

**4.10.6\* DOOR PROTECTIVE AND REOPENING DEVICE.** Elevator doors shall open and close automatically. They shall be provided with a reopening device that will stop and reopen a car door and hoistway door automatically if the door becomes obstructed by an object or person. The device shall be capable of completing these operations without requiring contact for an obstruction passing through the opening at heights of 5 in and 29 in (125 mm and 735 mm) from the floor (see Fig. 20). Door reopening devices shall remain effective for at least 20 seconds. After such an interval, doors may close in accordance with the requirements of ANSI A17.1-1978 and A17.1a-1979.

**4.10.7\* DOOR AND SIGNAL TIMING FOR HALL CALLS.** The minimum acceptable time from notification that a car is answering a call until the doors of that car start to close shall be calculated from the following equation:

$$T = D \text{ or } T = D$$

$$1.5 \text{ ft/s } 445 \text{ mm/s}$$

(4) Location. Controls shall be located on a front wall if cars have center opening doors, and at the side wall or at the front wall next to the door if cars have side opening doors (see Fig. 23(c) and (d)).

**4.10.13\* CAR POSITION INDICATORS.** In elevator cars, a visual car position indicator shall be provided above the car control panel or over the door to show the position of the elevator in the hoistway. As the car passes or stops at a floor served by the elevators, the corresponding numerals shall illuminate, and an audible signal shall sound. Numerals shall be a minimum of 1/2 in (13 mm) high. The audible signal shall be no less than 20 decibels with a frequency no higher than 1500 Hz. An automatic verbal announcement of the floor number at which a car stops or which a car passes may be substituted for the audible signal.

**4.10.14\* EMERGENCY COMMUNICATIONS.** If provided, emergency two-way communication systems between the elevator and a point outside the hoistway shall comply with ANSI A17.1-1978 and A17.1a-1979. The highest operable part of a two-way communication system shall be a maximum of 48 in (1220 mm) from the floor of the car. It shall be identified by a raised or recessed symbol and lettering complying with 4.30 and located adjacent to the device. If the system uses a handset, then the length of the cord from the panel to the handset shall be at least 29 in (735 mm). If the system is located in a closed compartment, the compartment door hardware shall conform to 4.27, Controls and Operating Mechanisms. The emergency intercommunication system shall not require voice communication.

#### **4.11\* PLATFORM LIFTS.**

**4.11.1 LOCATION.** Platform lifts permitted by 4.1 shall comply with the requirements of 4.11.

**4.11.2 OTHER REQUIREMENTS.** If platform lifts are used, they shall comply with 4.2.4, 4.5, 4.27, and the applicable safety regulations of administrative authorities having jurisdiction.

**4.11.3 ENTRANCE.** If platform lifts are used, then they should facilitate unassisted entry and exit from the lift in compliance with 4.112.

**4.12 WINDOWS.** (Reserved).

#### **4.13 DOORS.**

**4.13.1 GENERAL.** Doors required to be accessible by 4.1 shall comply with the requirements of 4.13.

**4.13.2 REVOLVING DOORS AND TURNSTILES.** Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible

**4.13.10\* DOOR CLOSERS.** If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 in (75 mm) from the latch, measured to the leading edge of the door.

**4.13.11\* DOOR OPENING FORCE.** The maximum force for pushing or pulling open a door shall be as follows:

(1) Fire doors shall have the minimum opening force allowable by the appropriate administrative authority.

(2) Other doors.

(a) exterior hinged doors: (Reserved).

(b) interior hinged doors: 5 lbf (22.2N)

(c) sliding or folding doors: 5 lbf (22.2N)

These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

**4.13.12\* AUTOMATIC DOORS AND POWER-ASSISTED DOORS.** If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power-assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform to the requirements in section 10 of ANSI A156.10-1979.

#### **4.14 ENTRANCES.**

**4.14.1 MINIMUM NUMBER.** Entrances required to be accessible by 4.1 shall be part of an accessible route and shall comply with 4.3. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available (see 4.3.2(1)). They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

**4.14.2 SERVICE ENTRANCES.** A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

**4.16.5\* FLUSH CONTROLS.** Flush controls shall be hand operated or automatic and shall comply with 4.27.4. Controls for flush valves shall be mounted on the wide side of toilet areas no more than 44 in (1120 mm) above the floor.

**4.16.6 DISPENSERS.** Toilet paper dispensers shall be installed within reach, as shown in Fig. 29(b). Dispensers that control delivery, or that do not permit continuous paper flow, shall not be used.

#### **4.17 TOILET STALLS.**

**4.17.1 LOCATION.** Accessible toilet stalls shall be on an accessible route and shall meet the requirements of 4.17.

**4.17.2 WATER CLOSETS.** Water closets in accessible stalls shall comply with 4.16.

**4.17.3 SIZE AND ARRANGEMENT.** The size and arrangement of toilet stalls shall comply with Fig. 30(a). Toilet stalls with a minimum depth of 56 in (1420 mm) (see Fig. 30(a)) shall have wall-mounted water closets. If the depth of toilet stalls is increased at least 3 in (75 mm), then a floor-mounted water closet may be used. Arrangements shown for stalls may be reversed to allow either a left- or right-hand approach.

*EXCEPTION:* In instances of alteration work where provision of a standard stall (Fig. 30(a)) is structurally impracticable or where plumbing code requirements prevent combining existing stalls to provide space, an alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

**4.17.4 TOE CLEARANCES.** In standard stalls, the front partition and at least one side partition shall provide a toe clearance of at least 9 in (230 mm) above the floor. If the depth of the stall is greater than 60 in (1525 mm), then the toe clearance is not required.

**4.17.5\* DOORS.** Toilet stall doors shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 in (1065 mm).

**4.17.6 GRAB BARS.** Grab bars complying with the length and positioning shown in Fig. 30(a), (b), (c), and (d) shall be provided. Grab bars may be mounted with any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with 4.26.

#### **4.18 URINALS.**

**4.18.1 GENERAL.** Accessible urinals shall comply with 4.18.

**4.18.2 HEIGHT.** Urinals shall be stall-type or wall-hung with an elongated rim at a maximum of 17 in (430 mm) above the floor.

**4.20.3 SEAT.** An in-tub seat or a seat at the head end of the tub shall be provided as shown in Fig. 33 and 34. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

**4.20.4 GRAB BARS.** Grab bars complying with 4.26 shall be provided as shown in Fig. 33 and 34.

**4.20.5 CONTROLS.** Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 34.

**4.20.6 SHOWER UNIT.** A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

**4.20.7 BATHTUB ENCLOSURES.** If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

#### **4.21 SHOWER STALLS.**

**4.21.1\* GENERAL.** Accessible shower stalls shall comply with 4.21. For shower stalls in accessible dwelling units, see 4.34.5.5.

**4.21.2 SIZE AND CLEARANCES.** Shower stall size and clear floor space shall comply with Fig. 35(a) or (b). The shower stall in Fig. 35(a) shall be 36 in by 36 in (915 mm by 915 mm). The shower stall in Fig. 35(b) will fit into the space required for a bathtub.

**4.21.3 SEAT.** A seat shall be provided in shower stalls 36 in by 36 in (915 mm by 915 mm) and shall be as shown in Fig. 36. The seat shall be mounted 17 in to 19 in (430 mm to 485 mm) from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with 4.26.3.

**4.21.4 GRAB BARS.** Grab bars complying with 4.26 shall be provided as shown in Fig. 37.

**4.21.5 CONTROLS.** Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 37. In shower stalls 36 in by 36 in (915 mm by 915 mm), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

**4.21.6 SHOWER UNIT.** A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

*EXCEPTION:* In unmonitored facilities where vandalism is a consideration, a fixed shower head mounted at 48 in (1220 mm) above the shower floor may be used in lieu of a hand-held shower head.

**4.23.3 CLEAR FLOOR SPACE.** The accessible fixtures and controls required in 4.23.4, 4.23.5, 4.23.6, 4.23.7, 4.23.8, and 4.23.9 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible bathroom. The clear floor spaces at fixtures and controls, the accessible route, and the turning space may overlap.

*EXCEPTION:* In bathrooms with only one water closet, one lavatory, and one bathtub or shower, a clear floor space of 30 in by 60 in (760 mm by 1525 mm) may be used in lieu of the unobstructed turning space.

**4.23.4 WATER CLOSETS.** If toilet stalls are provided, then at least one shall comply with 4.17; its water closet shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

**4.23.5 URINALS.** If urinals are provided, then at least one shall comply with 4.18.

**4.23.6 LAVATORIES AND MIRRORS.** If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

**4.23.7 CONTROLS AND DISPENSERS.** If controls, dispensers, receptacles, or other equipment is provided, then at least one of each shall be on an accessible route and shall comply with 4.27.

**4.23.8 BATHING AND SHOWER FACILITIES.** If tubs or showers are provided, then at least one accessible tub that complies with 4.20 or at least one accessible shower that complies with 4.21 shall be provided.

**4.23.9\* MEDICINE CABINETS.** If medicine cabinets are provided, at least one shall be located with a usable shelf no higher than 44 in (1120 mm) above the floor space. The floor space shall comply with 4.2.4.

#### **4.24 SINKS.**

**4.24.1 GENERAL.** Sinks required to be accessible by 4.1 shall comply with 4.24. Sinks in kitchens of accessible dwelling units shall comply with 4.34.6.5.

**4.24.2 HEIGHT.** Sinks shall be mounted with the counter or rim no higher than 34 in (865 mm) from the floor.

**4.24.3 KNEE CLEARANCE.** Knee clearance that is at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be provided underneath sinks.

**4.24.4 DEPTH.** Each sink shall be a maximum of 6-1/2 in (165 mm) deep.

**4.24.5 CLEAR FLOOR SPACE.** A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a sink to allow forward

(2) Shear stress induced in a grab bar or seat by the application of 250 lbf (1112N) shall be less than the allowable shear stress for the material of the grab bar or seat. If the connection between the grab bar or seat and its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.

(3) Shear force induced in a fastener or mounting device from the application of 250 lbf (1112N) shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(4) Tensile force induced in a fastener by a direct tension force of 250 lbf (1112N) plus the maximum moment from the application of 250 lbf (1112N) shall be less than the allowable withdrawal and the supporting structure.

(5) Grab bars shall not rotate within their fittings.

**4.26.4 ELIMINATING HAZARDS.** A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of 1/8 in (3.2 mm).

#### **4.27 CONTROLS AND OPERATING MECHANISMS.**

**4.27.1 GENERAL.** Controls and operating mechanisms required to be accessible by 4.1 shall comply with 4.27.

**4.27.2 CLEAR FLOOR SPACE.** Clear floor space complying with 4.2.4 that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment.

**4.27.3\* HEIGHT.** The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Except where the use of special equipment dictates otherwise, electrical and communications system receptacles on walls shall be mounted no less than 15 in (380 mm) above the floor.

**4.27.4 OPERATION.** Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

#### **4.28 ALARMS.**

**4.28.1 GENERAL.** Alarm systems required to be accessible by 4.1 shall comply with 4.28.

**4.28.2\* AUDIBLE ALARMS.** If provided, audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least

**4.29.7\* STANDARDIZATION.** Textured surfaces for tactile door warnings shall be standard within a building, facility, site, or complex of buildings.

### **4.30 SIGNAGE.**

**4.30.1\* GENERAL.** Signage required to be accessible by 4.1 shall comply with 4.30.

**4.30.2\* CHARACTER PROPORTION.** Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10.

**4.30.3\* COLOR CONTRAST.** Characters and symbols shall contrast with their background - either light characters on a dark background or dark characters on a light background.

**4.30.4\* RAISED CHARACTERS OR SYMBOLS.** Letters and numbers on signs shall be raised 1/32 in (0.8 mm) minimum and shall be sans serif characters. Raised characters or symbols shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). Symbols or pictographs on signs shall be raised 1/32 in (0.8 mm) minimum.

**4.30.5 SYMBOLS OF ACCESSIBILITY.** Accessible facilities required to be identified by 4.1, shall use the international symbol of accessibility. The symbol shall be displayed as shown in Fig. 43.

**4.30.6 MOUNTING LOCATION AND HEIGHT.** Interior signage shall be located alongside the door on the latch side and shall be mounted at a height of between 54 in and 66 in (1370 mm and 1675 mm) above the finished floor.

### **4.31 TELEPHONES.**

**4.31.1 GENERAL.** Public telephones required to be accessible by 4.1 shall comply with 4.31.

**4.31.2 CLEAR FLOOR OR GROUND SPACE.** A clear floor or ground space at least 30 in by 48 in (760 mm by 1220 mm) that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones (see Fig. 44). The clear floor or ground space shall comply with 4.2.4. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

**4.31.3\* MOUNTING HEIGHT.** The highest operable part of the telephone shall be within the reach ranges specified in 4.2.5 or 4.2.6.

**4.31.4 PROTRUDING OBJECTS.** Telephones shall comply with 4.4.



*EXCEPTION:* Accessible viewing positions may be clustered for bleachers, balconies, and other areas having sight lines that require slopes of greater than 5 percent. Equivalent accessible viewing positions may be located on levels having accessible egress.

**4.33.4 SURFACES.** The ground or floor at wheelchair locations shall be level and shall comply with 4.5.

**4.33.5 ACCESS TO PERFORMING AREAS.** An accessible route shall connect wheelchair seating locations with performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

**4.33.6\* PLACEMENT OF LISTENING SYSTEMS.** If the listening system provided serves individual fixed seats, then such seats shall be located within a 50 ft (15 m) viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

**4.33.7\* TYPES OF LISTENING SYSTEMS.** Audio loops and radio frequency systems are two acceptable types of listening systems.

#### **4.34 DWELLING UNITS.**

**4.34.1 GENERAL.** The requirements of 4.34 apply to dwelling units required to be accessible by 4.1.

**4.34.2\* MINIMUM REQUIREMENTS.** An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(1) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with 4.2 through 4.33.

(2) Accessible spaces shall have maneuvering space complying with 4.2.2 and 4.2.3 and surfaces complying with 4.5.

(3) At least one accessible route complying with 4.3 shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.

(4) See 4.1.1(5)(d) — Parking.

(5) Removed and reserved.

(6) Doors to and in accessible spaces that are intended for passage shall comply with 4.13, except that the provisions of 4.13.9 apply only to the doors at accessible entrances to the unit itself.

- (2) Notification of the provisions for the installation of grab bars at toilets, bathtubs, and showers.
- (3) Notification that the dwelling unit is equipped to have a visual emergency alarm installed.
- (4) Identification of the location where information and instructions are available for changing the height of counters, removing cabinets and bases, installing a visual emergency alarm system, and installing grab bars.
- (5) Notification that the dwelling unit has been designed in accordance with this Uniform Federal Accessibility Standards.

In addition, the parties who will be responsible for making adaptations shall be provided with the following information:

- (1) Instructions for adjusting or replacing kitchen counter and sink heights and for removing cabinets.
- (2) A scale drawing showing methods and locations for the installation of grab bars.
- (3) A scale drawing showing the location of adjustable or replaceable counter areas and removable cabinets.
- (4) Identification of the location of any equipment and parts required for adjusting or replacing counter tops, cabinets, and sinks.
- (5) Instructions for installing a visual emergency alarm system, if the dwelling unit is equipped for such an installation.

**4.34.5\* BATHROOMS.** Accessible or adaptable bathrooms shall be on an accessible route and shall comply with the requirements of 4.34.5.

**4.34.5.1 DOORS.** Doors shall not swing into the clear floor space required for any fixture.

**4.34.5.2 WATER CLOSETS.**

- (1) Clear floor space at the water closet shall be as shown in Fig. 47(a). The water closet may be located with the clear area at either the right or left side of the toilet.
- (2) The height of the water closet shall be at least 15 in (380 mm), and no more than 19 in (485 mm), measured to the top of the toilet seat.

controls. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

(3) Grab bars. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Fig. 49. If provided, grab bars shall be installed as shown in Fig. 37 and shall comply with 4.26.

(4) Controls. Faucets and other controls shall be located as shown in Fig. 37 and shall comply with 4.27.4. In the shower stall in Fig. 35(a), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

(5) Shower unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

**4.34.5.6 BATHTUB AND SHOWER ENCLOSURES.** Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

**4.34.5.7 CLEAR FLOOR SPACE.** Clear floor space at fixtures may overlap.

**4.34.6 KITCHENS.** Accessible or adaptable kitchens and their components shall be on an accessible route and shall comply with the requirements of 4.34.6.

**4.34.6.1\* CLEARANCE.** Clearances between all opposing base cabinets, counter tops, appliances, or walls shall be 40 in (1015 mm) minimum, except in U-shaped kitchens, where such clearance shall be 60 in (1525 mm) minimum.

**4.34.6.2 CLEAR FLOOR SPACE.** A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor. Laundry equipment located in the kitchen shall comply with 4.34.7.

**4.34.6.3 CONTROLS.** All controls in kitchens shall comply with 4.27.

**4.34.6.4 WORK SURFACES.** At least one 30 in (760 mm) section of counter shall provide a work surface that complies with the following requirements (see Fig. 50):

(1) The counter shall be mounted at a maximum height of 34 in (865 mm) above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 in, 32 in, and 36 in (710 mm, 815 mm, and 915 mm), measured from the top of the counter surface.

(8) There shall be no sharp or abrasive surfaces under sinks. Hot water and drain pipes under sinks shall be insulated or otherwise covered.

**4.34.6.6\* RANGES AND COOKTOPS.** Ranges and cooktops shall comply with 4.34.6.2 and 4.34.6.3. If ovens or cooktops have knee spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by 19 in (485 mm) maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

**4.34.6.7\* OVENS.** Ovens shall comply with 4.34.6.2 and 4.34.6.3. Ovens shall be of the self-cleaning type or be located adjacent to an adjustable height counter with knee space below (see Fig. 52). For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than 10 in (255 mm) when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

**4.34.6.8\* REFRIGERATOR/FREEZER.** Refrigerator/freezers shall comply with 4.34.6.3. Provision shall be made for refrigerators which are:

- (1) Of the vertical side-by-side refrigerator/freezer type; or
- (2) Of the over-and-under type and meet the following requirements:
  - (a) Have at least 50 percent of the freezer space below 54 in (1370 mm) above the floor.
  - (b) Have 100 percent of the refrigerator space and controls below 54 in (1370 mm).

Freezers with less than 100 percent of the storage volume within the limits specified in 4.2.5 or 4.2.6 shall be the self-defrosting type.

**4.34.6.9 DISHWASHERS.** Dishwashers shall comply with 4.34.6.2 and 4.34.6.3. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

**4.34.6.10\* KITCHEN STORAGE.** Cabinets, drawers, and shelf areas shall comply with 4.25 and shall have the following features:

- (1) Maximum height shall be 48 in (1220 mm) for at least one shelf of all cabinets and storage shelves mounted above work counters (see Fig. 50).
- (2) Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

disabilities, plus at least one unit for the hearing impaired and at least one unit for the visually impaired.

*How does Subtitle D of the Housing and Community Development Act affect Section 504 compliance issues?*

It has no impact.

Subtitle D of the Housing and Community Development Act allows owners of housing originally designed for seniors to limit the number of units occupied by younger, disabled individuals to a certain percentage based on the lesser of the number of units occupied by younger, disabled persons on two specified dates. The process of selecting Subtitle D is quite detailed and not pertinent to the focus of this course. HUD approval is required.

But the Subtitle D has no impact on Section 504.

*What are some of the other requirements associated with the self-evaluation and transition plan?*

Owners are required to consult with outside individuals in the preparation of the plan, including individuals with disabilities and organizations which represent them.

*Does the management company need to have one person responsible for Section 504 compliance?*

It depends. The HUD Handbook 4350.3, Rev-1 issued June 12, 2003 requires that owners, management agents, projects or entities with 15 or more employees designate one person as Section 504 coordinator. This person will be responsible for employment matters (since Section 504 is also an employment law) as well as physical accessibility at the properties.

This represents a policy change from the statute which specifically mentions "projects" with 15 or more employees. However, HUD realized that there were not many projects that had 15 or more employees (HUD makes no distinction between full-time and part-time employees) and this resulted in pockets of both compliance and noncompliance.

By making this change and expanding the requirement to owners, management agents, projects and other entities, HUD is leaving no doubt in the minds of the industry that compliance with Section 504 is a priority matter.

*NCHM has done some self evaluation and transition plans. What are some common deficiencies you've found?*

We have done more than 1,000 self evaluation and transition plans during the past decade. While no two properties are alike, except when they were designed to be

## Chapter 4:

# Other Civil Rights Laws and Enforcement

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*If we are subject to either Section 504 and/or the Fair Housing Act, why must we be concerned about state-based civil rights laws?*

As comprehensive as each of the federal statutes are, there are some groups left out for protection which the state or local governments have taken it upon themselves to rectify. Where there is a conflict between state/local and federal law, the more stringently protective law will be applicable.

*What are some examples?*

Some state law (New York) requires handicapped parking spaces to be reserved, while federal law is silent on this issue.

Some state laws protect against discrimination on the basis of sexual preference or orientation. The federal Fair Housing Act does not extend protection on this basis.

Many state laws set a minimum requirement of 10-15% accessible parking spaces. The Uniform Federal Accessibility Standards (UFAS) does not set as high a percentage.

Housing in the city of Boston must allow pets. In the federal statutes, pets are required only in Public Housing Authorities and in federally-funded housing for the elderly.

Austin, Texas protects students; Washington, D.C. protects political affiliation; Colorado Springs, Colorado protects military status. In short, whenever housing providers decide to eliminate people from housing opportunities, the government is likely to step in and provide protection to those very people.

While we are certainly not being all-inclusive here, we must mention the newest and most controversial addition to "protected classes" at the state and/or local level: discrimination on the basis of income or income source.

*Why is this controversial?*

It is considered controversial principally by companies involved in market rate housing.

There is a long standing business practice in market rate housing to have minimum income requirements. By establishing income or source of income as a protected class, the state or local governments have taken an action which many real estate developers and management companies regard as an intrusive and obvious effort to expand the Housing Choice Voucher program (also known as the Section 8 voucher program).

***Who is responsible for the enforcement of the Fair Housing Act and Section 504?***

The Office of Fair Housing and Equal Opportunity has the lead role in enforcement of the laws, but enforcement can also be done by an agency that HUD has recognized as having “essentially equivalent” status, such as many Fair Housing Councils. And individuals who believe their housing rights have been denied can bypass all agencies and file privately in the federal district courts.

***Who can bring a complaint alleging discrimination?***

Any member of a protected class of persons, any essentially equivalent agency, or any individual who is deemed to have standing by the Court, such as a relative may file a complaint.

***What is a “Tester?”***

A “tester,” also known as a “shopper,” is a specially trained individual who typically poses as a prospective applicant or simply as someone who is interested in the housing. They are a part of the investigative team and their true purpose – evaluating whether discrimination exists – is well hidden from the housing providers.

***Isn't that illegal?***

No, it's quite legal.

***Can management ask on its application if someone is a “tester?”***

Believe it or not, some real estate professionals have recommended this but NCHM does not and feels that such a question is only asking for trouble.

***Why?***

Our position is based on the fact that those who advocate asking such a question believe it is protection against entrapment. The argument goes something like this: If we ask on our application if someone is a tester and they answer they are not, then they cannot use anything against us and if they did it would constitute entrapment.

There are numerous problems with this, not the least of which is that “entrapment” is well established as a defense in criminal cases but not in civil ones such as fair housing. Another is that this question, if asked on an application for tenancy, quite properly raises the issue of what is going on at the property that they're so concerned about. A fair housing compliance review is likely to follow.

*What happens then?*

It is HUD's general policy to attempt to resolve discrimination in a semi-formal manner known as Conciliation. If both parties agree to Conciliation, the agency with whom the complaint has been filed will act as an arbitrator in an effort to get the parties to settle the complaint prior to an investigation or finding. Conciliation continues throughout the complaint process, including up to the time the parties are in Court, if necessary.

*What happens if Conciliation is successful?*

The parties sign an agreement. The Complainant agrees to end the complaint, usually in exchange for a monetary award or some other compensatory action by the Respondent. The Respondent admits no wrongdoing and the matter will be closed. Often, HUD will require the Respondent to agree to ongoing compliance monitoring which makes many Owners nervous, but which HUD has the right to do regardless of whether an agreement exists.

*Why can't we just contact the Complainant ourselves and try to work out some arrangement?*

Because once the complaint has been filed and accepted, the Complainant is represented by HUD or the essentially equivalent agency.

*Is there a time limit for a Complainant to file an allegation of discrimination?*

The limit is one year from the most recent act of discrimination.

*If Conciliation is unsuccessful, what happens then?*

If conciliation is unsuccessful, the next step is usually a formal investigation.

*Does the investigation need to be completed within any time frame?*

The Fair Housing Act specifies that investigations must be completed within 100 days. HUD's track record on this has not been good; in 1995 it was estimated by the Department's own statistics that they failed to meet this time frame in some 90% of the cases filed, but the Courts have consistently held that housing providers have not suffered because of this failure.

*Do HUD investigators have the right to request or subpoena records from us?*

Yes, on both counts.



Within a short period of time, the resident starts receiving numerous notices for alleged infractions, some minor and some more significant.

Do an objective observer, would it not seem that the communications from management are motivated by the allegation that the manager has some form of bias?

In order to counter allegations of retaliation, management would have to show that there is absolutely no relationship between the altercation and subsequent notices.

Retaliation can also occur after someone files a complaint of discrimination with Fair Housing, and management takes actions that could be construed as resulting from the formal complaint. This "ups the ante" significantly, and it is tougher for management to defend itself from both the discrimination complaint and the subsequent charge of retaliation.

# Case Studies

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## Exercise One:

The people at your table represent the board of directors for the Could-Be-Anywhere Management Company, Inc., of Massachusetts. Your purpose in getting together is to review recent issues that the company is bringing forward for your attention. These include the following:

- A recent occupancy review indicates that one of your rental housing properties has failed to meet its obligations under the Affirmative Fair Housing Marketing Plan (AFHMP). Currently occupancy is 79% white, 12% Hispanic, 7% Asian, 1% African American and 1% chose not to self identify. There is a waiting list but, because of HUD regulations, it cannot be ascertained what percentage of the waiting list is comprised of non-white applicants/households.
- The Board received an unsigned complaint from an individual who alleged that she went to the rental office and was denied an application. She further stated that a maintenance staff member told her an apartment was available, but she was told at the rental office that there was a three year waiting list.
- A HUD review recently cited the same property for not having a tenant selection plan, and noted the application seemed to be out of date with current HUD policy.
- A memorandum to the Board from a supervisor notes that the company has received repeated telephone calls from residents indicating that they have been poorly treated in their dealings with the rental office. Specifically, they alleged the manager is rude and confrontational when any questions are raised regarding policies and procedures, and that specific maintenance personnel are very "unprofessional" when performing work-orders in the apartments.
- The property has had seven fair housing complaints in the past two years, all of which have been settled out of court.

The task of your Board is:

1. Summarize the existing problems
2. Identify the causes or potential causes
3. Develop a series of goals and objectives
4. Describe in specific detail the measures you would take to achieve your goals, with the understanding that the primary goal will be to bring the property into compliance.

## Exercise Two:

The people at your table represent the board of directors for the Could-Be-Anywhere Management Company, Inc., of Massachusetts. Your purpose in getting together is to review recent issues that the company is bringing forward for your attention. These include the following letter from HUD:

Appendix I:

**THE FAIR HOUSING ACT AS AMENDED**

**Sec. 800. [42 U.S.C. 3601 note] Short Title**

This title may be cited as the "Fair Housing Act".

**Sec. 801. [42 U.S.C. 3601] Declaration of Policy**

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

**Sec. 802. [42 U.S.C. 3602] Definitions**

As used in this subchapter--

- (a) "Secretary" means the Secretary of Housing and Urban Development.
- (b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (c) "Family" includes a single individual.
- (d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.
- (e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.
- (g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.
- (h) "Handicap" means, with respect to a person--

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

[42 U.S.C. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

**Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions**

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) Dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: **Provided**, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

**Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices**

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) That buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) Any person associated with that buyer or renter.

(iii) All premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) Reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3) (C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3) (C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3) (C).

in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance—

(A) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) Secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

#### **Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services**

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

#### **Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption**

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) Persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): **Provided**, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) Unoccupied units: **Provided**, that such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) Such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

**Sec. 808. [42 U.S.C. 3608] Administration**

(a) Authority and responsibility



(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) Containing tabulations of the number of instances (and the reasons therefore) in the preceding year in which--

(i) Investigations are not completed as required by section 810(a) (1) (B);

(ii) Determinations are not made within the time specified in section 810(g); and

(iii) Hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) Cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) Cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) Administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) Annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e) (6) applies are--

Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

**Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports**

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

**Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters**

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) The Secretary shall serve notice upon the aggrieved person acknowledging such filing and

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) The names and dates of contacts with witnesses;

(ii) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) A summary description of other pertinent records;

(iv) A summary of witness statements; and

(v) Answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(A) Within the jurisdiction of a State or local public agency; and

(B) As to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) The certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) The certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) The Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) The substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) The procedures followed by such agency;

(iii) The remedies available to such agency; and

(iv) The availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) Shall be based on the final investigative report; and

(iii) Need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) On each aggrieved person on whose behalf the complaint was filed.

**Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence**

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings

person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. --

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) Send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) Recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(1) Which is filed by the Secretary under subsection (j) after the end of such day; or

(2) Under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising there from, or any civil action under



(2) Authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrance, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

**Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General**

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. --

(1)

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

#### **Sec. 814a. Incentives for Self-Testing and Self-Correction**

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self- test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real

In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

**Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

**Sec. 819. [42 U.S.C. 3618] Authorization of appropriations**

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

**Sec. 820. [42 U.S.C. 3619] Separability of provisions**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**(Sec. 12 of 1988 Act). [42 U.S.C. 3601 note] Disclaimer of Preemptive Effect on Other Acts**

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

**(Sec. 13 of 1988 Act). [42 U.S.C. 3601 note] Effective Date and Initial Rulemaking**

(a) **Effective Date.** -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) **Initial Rulemaking.** -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

## TITLE 28, UNITED STATES CODE, AS AMENDED

### Section 2341. Definitions

As used in this chapter --

- (1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;
- (2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and
- (3) "agency" means --
  - (A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;
  - (B) the Secretary, when the order was entered by the Secretary of Agriculture;
  - (C) the Administration, when the order was entered by the Maritime Administration; and
  - (D) the Secretary, when the order is under section 812 of the Fair Housing Act.

### Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

- (1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;
- (2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;
- (3) all rules, regulations, or final orders of-

## Appendix II:

# Draft Reasonable Accommodations Policy

*DISCLAIMER: Housing management organizations wishing to adopt and implement this policy are advised to first consult an attorney for clearance and approval. NCHM assumes no liability in connection with the implementation of this draft policy without approval by legal counsel.*

## I. INTRODUCTION

The Fair Housing Act Amendments of 1988 (24 CFR Parts 100 et seq.) mandates that housing providers shall make reasonable accommodations that are both reasonable and necessary to enable an individual with a disability to enjoy and benefit from housing. This policy implements this requirement.

## II. DEFINITIONS

The following definitions are used in connection with this policy:

- a) ACCOMMODATION. An alteration to a policy, practice or procedure.
- b) CLINICIAN: A medical doctor, psychologist, social worker or other professional who can attest to an individual's disability.
- c) DISABILITY: A physical or mental impairment that substantially limits one or more major life activities. This applies to individuals, and extends to the individual having a record of such an impairment, as well as individual who is regarded as having such impairment.
- d) FAIR HOUSING ACT: The Fair Housing Act as amended in 1988.
- e) REASONABLE: A determination made by the housing owner or management that a requested accommodation does not constitute an undue financial and administrative burden, or a fundamental alteration of the program.

## III. APPLICABILITY

This policy is solely applicable to residents with disabilities and to prospective residents/applicants for tenancy with disabilities.

## IV. PROCESS

- 1. Any individual who is eligible to request a reasonable accommodation (see Section III above) is welcome to do so.
- 2. A request for reasonable accommodation must be requested in writing unless, for reasons due to disability, a written request cannot be executed.
- 3. The request must contain as much information as possible about the accommodation.

**DRAFT VERIFICATION LETTER**

Dear Physician/Clinician:

Your patient, \_\_\_\_\_, has made a request of this company for a reasonable accommodation or modification pursuant to the provisions of the Fair Housing Act Amendments (24 CFR Parts 100.203 and 100.204). In order to verify the need for the requested accommodation, which is specifically \_\_\_\_\_

\_\_\_\_\_

we are asking the following questions of you. Please keep in mind that reasonable accommodations and reasonable modifications may involve the expenditure of federal housing funds and are a matter of compliance with federal law. Therefore, we ask that your answers be carefully considered. We are attaching a release for the disclosure of the requested information which has been signed by the above named patient.

1. In your professional opinion, does the individual/patient named herein meet the following definition of an "individual with a disability:" 1. Has a physical or mental impairment that substantially limits one or more major life activities OR; 2. Has a record of such an impairment OR; 3. Is regarded as having such impairment.

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

2. In your professional opinion, is the requested accommodation or modification necessary as a result of the disability?

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

\_\_\_\_\_  
Signature of Physician/Clinician  
State License number (if applicable): \_\_\_\_\_

Thank you for your kind assistance in this important matter. Our company is committed to insuring full compliance with all applicable civil rights regulations, and your response is both helpful and greatly appreciated.

Sincerely,  
NAME OF COMPANY REPRESENTATIVE



# Certificate of Attendance

Presented to

Cartina L. Pinkney

---

The person named above certifies viewing in its entirety  
the "*2018 Basics of the Fair Housing Act*" webinar  
training presented by Kristina Miller  
HUD-Office of Fair Housing and Equal Opportunity



Date Viewed: 03/09/20



# Certificate of Attendance

*Cartina Pinkney*

successfully completed 7 hours of  
Fair Housing Act and Violence Against Women Act  
Compliance Training  
May 15, 2018  
Trenton, New Jersey



NEW JERSEY HOUSING  
AND MORTGAGE  
FINANCE AGENCY  
WWW.NJHOUSING.GOV

*M E English*  
President, E&A Team, Inc.



"Better Results Through A Team Approach"  
www.EandATeam.com

HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**CARTINA L. PINKNEY**

For Your Participation in the July 12, 2017 Fair Housing  
Webinar Training



**KRISTINA MILLER**

**JULY 12, 2017**

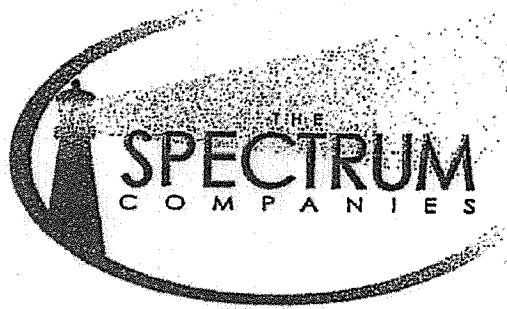
PRESENTER

DATE

***This is to Certify That***

***Cartina L. Pinkney***

***Is a Certified Credit Compliance Professional – C3P***



**This designation signifies that the recipient has a comprehensive understanding of the Low Income Housing Tax Credit Program and Has completed 3 hours (CEU's) of training.**

***C5P***

**July, 2017**

**Steven L. Rosenblatt, President**

A handwritten signature in black ink, appearing to be 'SR', is located below the printed name of Steven L. Rosenblatt.

HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**LAUREN CALDERON**

For Your Participation in the May 16, 2018  
Fair Housing Training



**KRISTINA MILLER**      **MAY 16, 2018**

PRESENTER

DATE

HUD-Office of Fair Housing and Equal Opportunity



**CERTIFICATE OF ATTENDANCE**

Presented to

**CARTINA L. PINKNEY**

For Your Participation in the July 12, 2017 Fair Housing  
Webinar Training



**KRISTINA MILLER**

**JULY 12, 2017**

PRESENTER

DATE



# Certificate of Completion


*This certifies that*

**Lauren Calderon**

---

*has completed the Marketing Training  
offered by HPD Marketing & Affordability Oversight Program.*



  
Victor M. Hernandez, Director  
HPD Marketing &  
Affordability Oversight

**November 17, 2017**

Date

Y

Inducement Resolution  
for Tax Exempt Bonds

## CERTIFICATE OF PUBLIC HEARING

The undersigned officer of the Petersburg Redevelopment and Housing Authority, a political subdivision of the Commonwealth of Virginia (the “**Authority**”) hereby certifies as follows:

1. A public hearing was conducted by the Authority on March 22, 2021, at 6:00 p.m., pursuant to proper notice of such meeting. The meeting was held during a regularly scheduled monthly meeting of the Authority at the Authority’s principal office, located at 128 S. Sycamore Street, Petersburg, Virginia 23803. The meeting was open to the public through live feed video and auditory streams and telephonic remote access was available. No physical attendance by members of the general public was allowed as a result of the pandemic. The time of the meeting and place at which the meeting was held and access facilitated by the Authority provided a reasonable opportunity for persons of differing views to participate and be heard.

2. The public hearing was held in connection with the request by Petersburg East Housing Partners, LP, a Virginia limited partnership and its affiliates (collectively, “**the Company**”), for the issuance by the Authority of its multifamily affordable residential housing facility revenue bonds in an amount not to exceed \$15,540,000 (the “**Bonds**”), to provide financing for (i) the acquisition, renovation, rehabilitation, equipping and improvement of a 168 unit multifamily affordable residential housing facility comprised of nineteen (19) two-story garden apartment buildings, surface parking areas, auxiliary buildings and a playground located on approximately 10.60 acres of land, (ii) the funding of debt service and other reserve funds and (iii) the payment of the costs of issuance with respect to the Bonds and other transaction expenses (the “**Project**”). A notice of the public hearing was published once a week for two successive weeks (on March 8, 2021 and March 15, 2021) in *The Progress-Index*, a newspaper having general circulation in Petersburg, Virginia. A certified copy of the Public Hearing Notice is attached hereto as **Exhibit A**.

3. The individuals identified on **Exhibit B** attached hereto participated and addressed the Authority at the public hearing. A reasonably detailed summary of the comments expressed at the public hearing by such individuals is included in **Exhibit B**.

4. Attached hereto as **Exhibit C** is a true, correct and complete copy of an Inducement Resolution adopted by the Authority with respect to the Project.

5. The Inducement Resolution constitutes all formal action taken by the Authority at the March 22, 2021 meeting relating to the Project referred to in the Inducement Resolution. The Inducement Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

6. Attached hereto as **Exhibit D** is a copy of the Fiscal Impact Statement for the Project.



7. Attached hereto as **Exhibit E** is a draft of a Resolution to be presented to the City Council of the City of Petersburg (the “**City Council**”) with respect to the Project at its meeting scheduled for April 28, 2021.

PETERSBURG REDEVELOPMENT AND  
HOUSING AUTHORITY

Dated: March 23 2021

By: Leonard G. Muse  
Leonard Muse, Chair

Exhibits:

- A – Evidence of Publication of Project Public Hearing Notice
- B – Summary of Statements Made at Public Hearing
- C – Authority’s Project Inducement Resolution
- D – Fiscal Impact Statement
- E – Governing Body Approval Resolution of the City Council of the City of Petersburg, Virginia for the Project

44741496\_1

**EXHIBIT A**

**EVIDENCE OF PUBLICATION OF PROJECT PUBLIC HEARING NOTICE**

AFFP  
PH 3-22-2021

## Affidavit of Publication

STATE OF THE                      SS  
COMMONWEALTH OF  
VIRGINIA }

Alice Coleman, being duly sworn, says:

That she is Legals Representative of the The Progress-Index, a daily newspaper of general circulation, printed and published in Petersburg, Petersburg City/ County, the Commonwealth of Virginia; that the publication, a copy of which is attached hereto, was published in the said

March 08, 2021, March 15, 2021

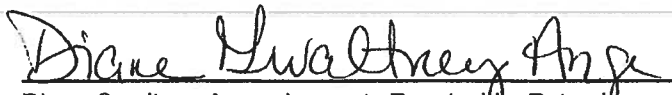
That said newspaper was regularly issued and circulated on those dates.

SIGNED:



Legals Representative

Subscribed to and sworn to me this 15th day of March 2021.



Diane Gwaltney Ange, Accounts Receivable, Petersburg City/ County, the Commonwealth of Virginia  
My commission expires: October 31, 2022

NOTICE OF PUBLIC HEARING BEFORE THE  
PETERSBURG REDEVELOPMENT AND  
HOUSING AUTHORITY  
ON A PROPOSED MULTIFAMILY AFFORDABLE RESIDENTIAL HOUSING  
FACILITY REVENUE BOND FINANCING FOR  
THE PETERSBURG EAST I & II APARTMENTS

Notice is hereby given that the Petersburg Redevelopment and Housing Authority (the "Authority") will hold a public hearing at the request of Petersburg East Housing Partners, L.P. and its affiliates (the "Borrower"), whose address is 1700 17th Avenue, Suite 2000, Seattle, Washington 98101, regarding a request for the issuance by the Authority of its affordable multifamily housing facility revenue bonds in the maximum principal amount of \$15,540,000 (the "Bonds"), in one or more series, at one time or from time to time, to finance or refinance a portion of the cost of acquiring, renovating, rehabilitating, improving and equipping an existing residential rental housing project consisting of 19 two-story buildings with 168 housing units located on approximately 10.60 acres and known as the Petersburg East I and II Apartments (the "Project"). The Project is located at 110 Croatan Drive and 2385 Navajo Court, Petersburg, Virginia 23803 in the City of Petersburg (the "City"). Bond proceeds may be used for (a) eligible costs associated with the acquisition of and improvements to the Project (b) the establishment of reserve funds as permitted by applicable law, and (c) costs incurred in connection with the issuance of the Bonds (the "Plan of Finance"). The Project will meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended. The Project is expected to be owned and operated by the Borrower.

The public hearing, which may be continued or adjourned, will be held at 6:00 p.m. on March 22, 2021 before the Authority at the Authority's offices located at 128 S. Sycamore Street, Petersburg, Virginia 23803. Due to the ongoing COVID-19 Pandemic, in accordance with applicable federal and Virginia law, the public hearing will be conducted through conference call. Members of the public may witness and participate in the public hearing by using the dial-in number and conference code set forth below.

DIAL-IN NUMBER: 866-397-5385  
CONFERENCE CODE: 8044206450

The issuance of the Bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, the Authority or the City, but will be payable solely from revenues derived from the Borrower and the Project that are pledged therefor. Neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority or the City, is pledged to the payment of the Bonds. The Authority has no taxing power.

Any person interested in the Issuance of the Bonds or the Plan of Finance may participate in the hearing and present his or her views or provide written comments to the Authority beforehand. No physical attendance will be permitted at the Authority's public hearing as a result of the COVID-19 pandemic, but parties may participate remotely telephonically as set forth above. A copy of the Borrower's application may be inspected at the Authority's office at the address stated above during business hours.

00063647 00516479

Sarah Huffman  
200 South 10th Street  
Suite 1600  
Richmond, VA 23219

## EXHIBIT B

### SUMMARY OF STATEMENTS MADE AT PUBLIC HEARING

Douglas L. Sbertoli, bond counsel for the Petersburg East Partners, L.P. and its affiliates. (the “Company”) in connection with the financing of the Petersburg East I & II Apartments (the “Apartments”), introduced himself and indicated that he was participating in the meeting remotely in connection with the proposed issuance of tax-exempt bonds on behalf of the Company by the Authority in an amount not to exceed \$15,540,000 (the “Bonds”) to finance the acquisition, renovation, rehabilitation, equipping and improvement of the apartments, a 168 unit multifamily affordable residential housing facility (the “Project”). Ms. Brooke Shorett was also available telephonically to describe the plans for the Project to be financed by the Bond issuance and to present information to the Authority.

Constituting, all of the Authority Commissioners were in attendance. Bond counsel confirmed that the public hearing had been properly noticed in accordance with applicable federal and state tax law requirements and offered, along with Ms. Shorett, to address questions raised by the Authority or members of the public regarding the financing of the Project and the role of the Authority.

No member of the public participated through the dial-in number established for the public hearing that was published in the Notice that appeared in the *Progress-Index*. Commissioner Dickens spoke requesting comment from parties wishing to speak. Three individuals participating through the Zoom call established for the meeting spoke. Mr. Conwell commented on electrical and building code compliance issues related to water, sewer and HVAC systems at the Apartments of which he was ware when he worked for the City. Mr. Hudson directed questions to Ms. Shorett regarding the role of VHDA in the transaction, the estimated rehabilitation costs per apartment unit and services that would be provided by the Developer to assist tenants. Ms. Shorett responded to such inquires. Commissioner Brown raised a question regarding the reference to IRC Section 142 (d) that both Bond Counsel and Ms. Shorett addressed.

**AUTHORITY'S PROJECT INDUCEMENT RESOLUTION**

**RESOLUTION OF  
THE PETERSBURG REDEVELOPMENT AND HOUSING AUTHORITY  
EVIDENCING THE INTENT TO ISSUE UP TO  
\$15,540,000 IN PRINCIPAL AMOUNT OF  
MULTIFAMILY AFFORDABLE RESIDENTIAL HOUSING FACILITY  
REVENUE BONDS FOR THE BENEFIT OF  
PETERSBURG EAST HOUSING PARTNERS, LP**

WHEREAS, the Petersburg Redevelopment and Housing Authority, a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Virginia Housing Authorities Law in Chapter 1, Title 36 of the Code of Virginia, as amended (the "Act"), to issue its revenue bonds to promote the availability of affordable housing for all citizens of the Commonwealth of Virginia by providing, among other things, safe, decent and sanitary housing for those citizens with low or moderate incomes and assisting in the financing of multifamily affordable residential housing facilities; and

WHEREAS, such assistance will benefit the inhabitants of the City of Petersburg, Virginia (the "City") and the Commonwealth of Virginia (the "Commonwealth"), through the promotion of affordable housing opportunities and of the safety, health and welfare of its citizens; and

WHEREAS, the Authority has received a request from Petersburg East Housing Partners, LP, a Virginia limited partnership and its affiliates (collectively, the "Borrower"), to issue multifamily affordable residential housing facility revenue bonds in an aggregate principal amount not to exceed \$15,540,000 (the "Bonds") to finance or refinance on behalf of the Borrower (i) the costs of the acquisition, renovation, rehabilitation, equipping and improvement of the Petersburg East I and II Apartments, a 168 unit garden apartments housing facility located on approximately 10.60 acres consisting of 19 two-story residential buildings, a surface parking area, a playground, and other building amenities such as laundry facilities and an on-site leasing office, (ii) the funding of debt service and other reserve funds, and (iii) to pay costs of issuance and other expenses in connection with the issuance of the Bonds (the "Project"); and

WHEREAS, preliminary plans for the establishment of a credit facility to finance the Project consisting of the issuance of the Bonds and the award by Virginia Housing, formerly known as the Virginia Housing Development Authority (the "VHDA") or other governmental authority on behalf of the Commonwealth and sale by the Borrower of low income housing tax credits ("LIHTC") awarded to it, together with equity contributions made by the Borrower, as necessary have been described in general terms to the Authority (the "Plan of Financing"); and

WHEREAS, the Borrower has represented that the Project will be financed through the issuance of one or more series of Bonds; and

WHEREAS, pursuant to due notice, the Authority has on this date conducted a public hearing on the application of the Borrower for the issuance of the Bonds in compliance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and Section 15.2-4906 of the Code of Virginia ( the "Virginia Code"); and

WHEREAS, the public hearing described in the immediately preceding paragraph was held telephonically in accordance with Internal Revenue Service Revenue Procedure 2020-21, as modified by Internal Revenue Service Revenue Procedure 2020-49, and the Commonwealth's budget bill for the biennium ending June 30, 2022, as the Governor of the Commonwealth has issued Executive Order Fifty-One (2020), as amended, declaring a state of emergency; and

WHEREAS, the Borrower and the Authority shall comply with all applicable provisions of the Act; and

WHEREAS, the Borrower currently proposes for the Project to reserve at least forty percent (40%) of the housing units contained therein for occupancy by persons whose income is less than sixty percent (60%) of the area median gross income, as required by Section 142(d)(1)(B) of the Code; and

WHEREAS, each member of the Authority has, before entering upon his or her duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended; and

WHEREAS, no member of the Board of Commissioners of the Authority has any personal interest or business interest in the Borrower or the Bonds or has otherwise engaged in conduct prohibited under the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended (the "Conflict of Interests Act") in connection with this Resolution or any other official action of the Authority in connection therewith:

**NOW, THEREFORE, BE IT RESOLVED BY THE PETERSBURG REDEVELOPMENT AND HOUSING AUTHORITY:**

1. It is hereby found and determined that the Project and the approval of the Plan of Finance and the issuance of the Bonds will be in the public interest and will promote the availability of affordable housing and safe, decent and sanitary housing for those citizens with low or moderate income in the Commonwealth and the City.
2. The Authority hereby agrees to assist the Borrower in facilitating the Plan of Financing by undertaking the issuance of its tax-exempt revenue Bonds in an amount not to exceed \$15,540,000 upon terms and conditions mutually agreeable to the Authority and the Borrower. The Bonds will be issued pursuant to documents satisfactory to the Authority. The Bonds may be issued in one or more series at one time or from time to time.
3. It having been represented to the Authority that it is necessary for the Borrower to proceed immediately with certain actions regarding the Project and the Plan of Financing, therefore the Authority agrees that the Borrower may proceed to undertake actions to facilitate work on the Project and the Plan of Financing, enter into contracts with respect to the acquisition, renovation, rehabilitation, equipping and improvement of the Project, and take such other steps as it may deem appropriate in connection with the Project and the Plan of Financing, provided, however, that nothing in this Resolution shall be deemed to authorize the

Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Project and the Plan of Financing. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act, and applicable federal laws.

4. All costs and expenses in connection with the Plan of Financing and the acquisition, renovation, rehabilitation, equipping and improvement of the Project, including the fees and expenses of the Authority, Bond Counsel, and counsel for the Authority shall be paid by the Borrower or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason such Bonds are not issued, it is understood that all such expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefore.
5. In adopting this Resolution the Authority intends to take "official action" toward the issuance of the Bonds and to establish its "official intent" to issue tax-exempt bonds within the meaning of Treasury Regulation Section 1.150-2 as promulgated under the Code, and to allow the Borrower to be reimbursed from the proceeds of the Bonds for any expenditures paid by the Borrower to finance or refinance the acquisition, renovation, rehabilitation, equipping and improvement of the Project and the planning therefore prior to the issuance of the Bonds, all within the meaning of regulations issued by the Internal Revenue Service pursuant to Sections 103 and 141 through 150 and related sections of the Code.
6. The Borrower intends to utilize the proceeds from the sale of the Bonds and LIHTC or other debt incurred to pay the costs of the Project in an amount not currently expected to exceed \$15,540,000. Such amount may be revised as the Bond issue is sized and structured, but the aggregate principal amount of the Bond, without taking into account original issue premium, shall not be increased without the approval of the Authority. Any taxable debt incurred by the Borrower to finance the Project after the date hereof may be refinanced with tax-exempt bonds as approved by Bond Counsel.
7. The Bonds shall not be a general obligation debt of the Commonwealth or any political subdivision thereof, including the Authority or the City, and neither the Commonwealth, nor any political subdivision thereof, including the Authority or the City, nor any officials, officers, commissioners and/or employees, past, present or future, of any or all of them, are or shall be personally liable thereon. The Bonds, together with the premium, if any, and the interest payable thereon, shall be a limited obligation of the Authority payable solely by the Borrower from revenues, receipts and payments specifically pledged therefor pursuant to the terms of the Bonds and the related financing documents. Neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, shall be pledged to the payment of the principal of the Bonds, the premium, if any, or the interest thereon or other costs incident thereto. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.



8. The Borrower hereby agrees to satisfy all applicable federal, state and local laws with respect to the Project, including, but not limited to, any applicable fair housing requirements.
9. The Authority hereby recommends that the City Council of the City (the "City Council") grant "governing body approval" of the issuance of the proposed Bonds and the Plan of Financing within the meaning of Section 15.2-4906 of the Virginia Code and Section 147(f) of the Code, and directs the Chairman, Vice-Chairman or Secretary of the Authority to transmit to the City Council a copy of this Resolution and a reasonably detailed summary of the Authority's public hearing held on this date. The Fiscal Impact Statement regarding the Project as executed by the Borrower and the Authority as required by Section 15.2-4907 of the Virginia Code shall be filed with the City Council as well.
10. The Authority agrees, subsequent to the City Council's granting of the "governing body approval" for the issuance of Bonds by the Authority, and with the direction and assistance of Bond Counsel and the Borrower, to apply to the Virginia Department of Housing and Community Development, in its capacity as "allocation administrator" for tax-exempt private activity bonds, bond dollar allocations for the Local Housing Authority Pool, or the Governor's Discretionary Pool, for one or more allocations totaling \$15,540,000 of local housing authority "volume cap" for the Project.
11. Any obligation of the Authority to exercise its powers to issue the Bonds as requested by the Borrower is contingent upon the satisfaction of all legal requirements and the Authority (including its officers, commissioners, employees and agents) shall not be liable and hereby disclaims all liability to the Borrower and all other persons or entities for any damages, direct or consequential, resulting from the Authority's failure to issue the Bonds for the Project for any reason, including but not limited to the failure of the City Council to approve the issuance of the Bonds.
12. No tax-exempt Bonds may be issued pursuant to this Resolution until such time as (a) the issuance of the Bonds has been approved by the City Council, (b) the Project has received an allocation or allocations from the Local Housing Authority or the Governor's Discretionary Fund Pool for Tax-Exempt Bond Dollar Allocation "volume cap" funds in accordance with applicable provisions of the Virginia Code and any regulations or executive orders issued in connection therewith, and (c) the final terms and details of the Bonds, have been approved by subsequent resolution of the Authority.
13. The provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision of this Resolution shall be declared invalid, such invalidity shall not affect the validity of the remainder of the sections, phrases and provisions of this Resolution.
14. The Authority hereby appoints Williams Mullen, as requested by the Borrower, to serve as Bond Counsel.

15. The Bonds may not be issued pursuant to this Resolution until such time as the issuance of the Bonds has been approved by the City Council.
16. By submitting its request for this Inducement Resolution to the Authority, the Borrower has agreed to indemnify and hold harmless the Authority, its officers, commissioners, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the Project, the Plan of Finance or the Bonds.
17. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds or the creditworthiness of the Plan of Finance.
18. The Authority confirms the finding and determination contained in the recitals to this Resolution setting forth the reason for the need to meet by electronic means during the current declared state of emergency by the governor of the Commonwealth arising from COVID-19.
19. The Authority shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings hereinabove set forth.
20. This Resolution shall take effect immediately upon its adoption.

Date: March 22, 2021

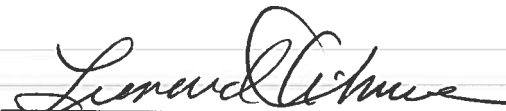
**CERTIFICATE**

The undersigned, secretary of the Petersburg Redevelopment and Housing Authority (the "Authority"), does hereby certify that the foregoing resolution was adopted at a meeting of the Board of Commissioners of the Authority, duly called and held on March 22, 2021, at which meeting a quorum of the directors was present and acting throughout, and that such resolution has not been repealed, amended or supplemented and is in full force and effect on the date hereof.

Member Name	Present	Absent	Voting		
			Yes	No	Abstaining
Leonard Muse, Chair	X		X		
Mary S. Howard, Vice-Chair	X			X	
Linda Poe, Commissioner	X		X		
Kim Potts, Commissioner	X		X		
Joseph Dickens, Commissioner	X			X	
Tricia Brown, Commissioner	X		X		

WITNESS my hand and seal of the County this 22 day of March, 2021.

PETERSBURG REDEVELOPMENT AND  
HOUSING AUTHORITY

By:   
Leonard Muse, Chair

(SEAL)

**FISCAL IMPACT STATEMENT**

**FISCAL IMPACT STATEMENT FOR A BOND ISSUE SUBMITTED TO THE  
PETERSBURG REDEVELOPMENT AND HOUSING AUTHORITY**

The undersigned applicant hereby authorizes the Chair of the **PETERSBURG REDEVELOPMENT AND HOUSING AUTHORITY** to submit the following information in compliance with Section 15.2-4907, Code of Virginia of 1950, hereby states the following:

Name of Applicant: Petersburg East Housing Partners, LP

Project: The (i) acquisition, renovation, rehabilitation, equipping and improvement of a 168 unit affordable multifamily residential rental project to be located on approximately 10.60 acres of land at 110 Croatan Drive and 2385 Navajo Court in the City of Petersburg, Virginia 23803 and comprised of nineteen (19) two-story garden apartment buildings, a playground and other auxiliary buildings, (ii) the funding of debt service and other reserve funds and (iii) the payment of issuance and other transaction costs.

1.	Maximum amount of financing sought	<u>\$ 15,540,000.00</u>
2.	Estimated taxable value of the facility's real property in the locality	<u>\$8,800,000.00</u>
3.	Estimated real property tax per year using present tax rates	<u>\$120,000.00</u>
4.	Estimated personal property tax per year using present tax rates	<u>\$ 0</u>
5.	Estimated machinery and tools tax per year using present tax rates	<u>\$ 0</u>
6. a.	Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	<u>\$ 34,000</u>
b.	Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	<u>\$ 17,400</u>
c.	Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	<u>\$ 157,000</u>
d.	Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	<u>\$ 59,400</u>
7.	Estimated number of regular employees on year-round basis	<u>5</u>
8.	Average annual salary per employee	<u>\$43,000</u>

**PETERSBURG EAST HOUSING PARTNERS, LP**  
BY: VITUS DEVELOPMENT IV, LLC, its sole General Partner

By:   
Scott Langan, Authorized Signatory

**APPROVED:**

**PETERSBURG REDEVELOPMENT AND HOUSING AUTHORITY**  
By:  3/22/2021  
Leonard Muse, Chair

**EXHIBIT E**

**GOVERNING BODY APPROVAL RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PETERSBURG, VIRGINIA FOR THE PROJECT**

**RESOLUTION NUMBER \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETERSBURG, VIRGINIA FOR GOVERNING BODY APPROVAL OF THE ISSUANCE BY THE PETERSBURG HOUSING AND REDEVELOPMENT AUTHORITY OF ITS MULTI-FAMILY RESIDENTIAL RENTAL AFFORDABLE HOUSING FACILITY REVENUE BONDS FOR THE BENEFIT OF PETERSBURG EAST HOUSING PARTNERS, LP AND ITS PETERSBURG EAST I AND II APARTMENTS REHABILITATION PROJECT LOCATED IN THE CITY OF PETERSBURG, VIRGINIA

WHEREAS, the Petersburg Housing and Redevelopment Authority (the “Authority”), was created and empowered pursuant to the Virginia Housing Authorities Law, Chapter 41, Title 36 of the Code of Virginia, as amended (the “Act); and

WHEREAS, the Act empowers the Authority to issue its notes or bonds in accordance with the provisions of the Act for the purpose of making loans for assistance in the financing or refinancing of the acquisition, renovation, rehabilitation, equipping and improvement by private sponsors of affordable housing projects and to refund prior obligations issued for any such purposes; and

WHEREAS, Petersburg East Housing Partners, LP, a Virginia limited partnership, together with its affiliated organizations (the “Borrower”), has applied to the Authority for the issuance of the Authority’s Multi-family Residential Rental Affordable Housing Facility Revenue Bonds (Project), Series 2021 in an amount not to exceed \$15,540,000 (the “Bonds”), to provide financing for the acquisition, rehabilitation, renovation, equipping and improvement of a 168 unit multifamily residential rental affordable housing facility project located on approximately 10.60 acres of land and comprised of (i) nineteen two-story garden apartment buildings, a surface parking area, and other tenant recreational and building amenities, (ii) the funding of debt service and other reserve funds and (iii) the payment of costs of issuance of the Bonds and other transaction expenses (collectively, the “Project”); and

WHEREAS, the Borrower, which will commence the Project promptly following the issuance of the Bonds, has its principal place of business at 1700 17<sup>th</sup> Avenue, Suite 2600, Seattle, Washington 98101; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), requires, among other things, the approval by this City Council of the City of Petersburg, Virginia (the “City Council”) of the issuance of any private activity bonds by the Authority after the Authority has held a public hearing with regard to such action as one of the acts required in order for the interest on such Bonds to qualify for exemption from the imposition of federal income tax; and

WHEREAS, pursuant to due notice, the Authority has, on March 22, 2021, conducted a public hearing on the application of the Borrower for the issuance of the Bonds in compliance with the requirements of Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the “Virginia Code”), and after such public hearing did adopt a resolution to express its intent to issue the Bonds in an amount not to exceed \$15,540,000, subject to the adoption of this Resolution by Council; and

WHEREAS, Section 15.2-4906 of the Virginia Code requires that within sixty (60) calendar days after the public hearing, that this Council approve or disapprove the financing of any facility recommended by the Authority; and

WHEREAS, pursuant to Section 146 of the Code and Title 15.2, Chapter 50 of the Virginia Code and the Virginia Private Activity Bond Allocation Guidelines utilized by the Virginia Department of Housing and Community Development (“DHCD”), an allocation from the “State Ceiling” (as defined in Section 146 of the Code) limitation on the volume of private activity notes or bonds which may be issued in the Commonwealth of Virginia in 2021 (the “Volume Cap”) must be granted by DHCD from either its Local Housing Authority Pool or the Governor’s Discretionary Fund, in its capacity as Allocation Administrator, in order for the interest on the Bonds to be exempt from the imposition of federal income tax, and for which allocation of Volume Cap an application must be submitted by the Authority and the Borrower to DHCD; and

WHEREAS, the Authority has recommended that the City Council approve the issuance of the Bonds and support the Authority’s application to DHCD for an allocation to the Bonds of a portion of the State Ceiling with respect to the Volume Cap; and

WHEREAS, a Fiscal Impact Statement complying with the requirements of Section 15.2-4907 of the Virginia Code, a record of the public hearing held by the Authority and a copy of the Authority’s Inducement Resolution, adopted on March 22, 2021, recommending the City Council’s approval of the issuance of the Bonds by the Authority, subject to the terms to be agreed upon, have been filed with the City Council:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PETERSBURG, VIRGINIA:

1. The City Council approves the issuance of the Bonds by the Authority for the benefit of the Borrower and the Project, as required by Section 147(f) of the Code, and Section 15.2-4906 of the Virginia Code, as applicable to affordable housing projects.

2. The City Council supports the Authority’s application to DHCD for one or more allocations for the Bonds totaling an amount not to exceed \$15,540,000 of the State Ceiling of Volume Cap.

3. The approval of the issuance of the Bonds, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, and the acceptance of the fiscal impact statement provided in accordance with Section 15.2-4907 of the Virginia Code, do not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.

4. The Bonds shall provide that neither the City of Petersburg, Virginia (the “City”) nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto and that neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the City, or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.

5. In adopting this Resolution, neither the City nor the Authority, including their elected representatives, officers, employees and agents, shall be liable for, and hereby disclaim all liability for, any damages to any person, direct or consequential, resulting from the issuance of the Bonds or the Authority’s failure to issue the Bonds for any reason.

6. This resolution shall go into effect immediately upon the date of its adoption.



Adopted by the City Council of the City of Petersburg, Virginia on the \_\_\_\_ day of April, 2021.

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
City Attorney

**CERTIFICATE OF VOTES**

The following is a record of the vote by the City Council of the City of Petersburg, Virginia (the "Council"), on the foregoing resolution, approved at a duly called regular meeting of the Council held on April 20, 2021, at which meeting a quorum of the Council was present:

	<b>AYE</b>	<b>NAY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Samuel Parham, Mayor				
Annette Smith-Lee, Vice-Mayor				
Charles Cuthbert				
John A. Hart, Sr.				
Darrin Hill				
W. Howard Myers				
Treska Wilson-Smith				

\_\_\_\_\_  
City Clerk  
City Council of the City of Petersburg, Virginia

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